



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND AND ADOPT THE FOLLOWING REGULATION SECTIONS, ALONG WITH ASSOCIATED FORMS, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

REGULATION SECTIONS PROPOSED FOR AMENDMENT: 1859.2, 1859.51 AND 1859.81.

REGULATION SECTIONS PROPOSED FOR ADOPTION: 1859.190, 1859.191, 1859.192, 1859.193, 1859.193.1, 1859.194, 1859.195, 1859.196, 1859.197, 1859.198 AND 1859.199.

FORMS PROPOSED FOR AMENDMENT

Application for Funding, Form SAB 50-04, (Revised 07/07), referenced in Regulation Section 1859.2

Fund Release Authorization, Form SAB 50-05, (Revised 01/07), referenced in Regulation Section 1859.2

FORM PROPOSED FOR ADOPTION

Application for Career Technical Education Facilities Funding, Form SAB 50-10, (New 01/07), referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend and adopt the above-referenced regulation sections and associated forms, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the

public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend and adopt the above regulation sections under the authority provided by Sections 17070.35, 17070.955, 17075.15, 17078.72 and 17592.73 of the Education Code. The proposals interpret and make specific reference to Sections 8070, 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20, 17075.10, 17075.15, 17076.10, 17077.40, 17078.72, 42268, 51224, 51225.3 and 51228 of the Education Code.

**INFORMATIVE DIGEST/POLICY OVERVIEW
STATEMENT**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The SAB, at its January 24, 2007 meeting, adopted proposed emergency regulatory changes for the purpose of implementing the Career Technical Education Facilities Program (CTEFP) into the School Facility Program (SFP) regulations, in accordance with Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez). The proposed emergency regulatory amendments will help local educational agencies/school districts to apply for 50 percent State funding for constructing new facilities, or reconfiguring existing ones, needed for students to learn the skills and knowledge critical for today's high demand technical careers. Grant determinations shall take into account 50 percent of construction costs as determined by the project architect, and 50 percent of costs for necessary equipment, but not to exceed \$3 million for new construction projects nor \$1.5 million for modernization projects.

Funding of \$500 million for CTEFP was approved by voters at the November 7, 2006 General Election in Proposition 1D (the Kindergarten-University Public Education Facilities Bond Act of 2006). CTEFP apportionments require an applicant matching share contribution on a dollar-for-dollar basis, and loans may be requested by districts needing assistance to reach their

matching share requirement if specified criteria are met. Terms of loan agreements are specified, including the requirement to repay the loan to the State with interest on the unpaid balance at the same rate as that charged by the Pooled Money Investment Board.

The proposed regulatory amendments and adoption of new sections are summarized as follows:

Existing Regulation Section 1859.2 defines words and terms used exclusively for these regulations. The proposed amendments add definitions regarding the CTEFP and new Form SAB 50–10 for CTEFP funding applications. The proposed amendments delete definitions of “Comprehensive High School,” “Large New Construction Project,” and “Large Modernization Project;” the need for these definitions was superseded by the provisions of AB 2419, Chapter 778, Statutes of 2006, that as a condition of funding for *any* construction or modernization projects, the district’s career technical education advisory committee must submit written confirmation that career technical and vocational facility needs are being adequately met.

Existing Regulation Section 1859.51 provides adjustment factors that increase or decrease a school district’s baseline eligibility for new construction. The proposed amendment precludes classrooms constructed as a career technical education project pursuant to Education Code Section 17078.72 from being deducted from the district’s baseline eligibility.

Existing Regulation Section 1859.81 sets forth eligibility criteria for SFP financial hardship status in order for the State to fund all or a portion of a school district’s required share of project costs. The proposed amendments specify that CTEFP projects are not eligible for financial hardship status, and that funds reserved for the local matching share on a CTEFP project will not be deemed as “available” funds when determining financial hardship status.

Proposed adoption of Regulation Section 1859.190 cites Education Code Section 17078.72 for authority, requires submittal of Form SAB 50–10 to apply for funding, allows submittal of multiple CTEFP applications for different projects at a single school site, and sets forth that CTEFP modernization projects do not affect the Modernization Eligibility of that facility pursuant to Regulation Section 1859.60.

Proposed adoption of Regulation Section 1859.191 sets forth that CTEFP Approved Applications will be received and prioritized for funding by the SAB in six-month cycles. The deadlines to submit Approved Applications to the OPSC for the first and second funding cycles will be October 31, 2007 and April 30, 2008, respectively, with subsequent cycles as needed to exhaust the CTEFP funds.

Proposed adoption of Regulation Section 1859.192 sets forth the eligibility criteria to apply for CTEFP

funding for either new construction projects or modernization projects. Applications must meet the requirements of Education Code Section 17078.72(i) and score at least 105 points.

Proposed adoption of Regulation Section 1859.193 specifies the grant determinations for CTEFP new construction projects included in a qualifying SFP New Construction Grant, or for stand-alone CTEFP new construction projects, or for the modernization/reconfiguration of an existing school building. CTEFP funding applications may include, or be solely for, necessary equipment with an average useful life expectancy of at least ten years. Grant determinations shall take into account 50 percent of construction costs as determined by the project architect, 50 percent of costs for necessary equipment, but not to exceed \$3 million for new construction projects nor \$1.5 million for modernization/reconfiguration projects.

Proposed adoption of Regulation Section 1859.193.1 specifies that CTEFP funding applications may be submitted with SFP new construction or modernization funding applications under specific criteria, including the requirement that the constructed or modernized CTEFP classrooms were not occupied prior to May 20, 2006.

Proposed adoption of Regulation Section 1859.194 specifies that CTEFP apportionments shall require an applicant matching share contribution on a dollar-for-dollar basis, and that loans may be requested by districts needing assistance to reach their matching share requirement, if specified criteria are met. Terms of loan agreements are set forth, including the requirement to repay the loan to the State with interest on the unpaid balance at the same rate as that charged by the Pooled Money Investment Board.

Proposed adoption of Regulation Section 1859.195 prescribes that in the first six-month funding cycle, up to \$350 million may be apportioned for CTEFP applications, while in the second six-month funding cycle \$150 million may be apportioned plus any funds remaining from the first cycle. The SAB may authorize additional funding cycles if deemed necessary.

Proposed adoption of Regulation Section 1859.196 specifies the prioritization of CTEFP applications for funding within 11 “Service Regions” as designated by the California County Superintendents Educational Services Association, ranked from highest to lowest according to the numerical score for the CTEFP application pursuant to Education Code Section 17078.72(i), and identified by project locale as “Urban, Suburban, or Rural.” The SAB shall apportion funds within each Service Region beginning with the highest scored project in each locale and continuing in order of descending scores for projects in turn from each locale with remaining projects.

Proposed adoption of Regulation Section 1859.197 sets forth the process for the release of approved CTEFP apportionments upon the applicant's submittal to the OPSC of an approved Form SAB 50-05 within 18 months of the SAB approval of the Apportionment. Apportionments shall be rescinded for failure to meet this deadline. Submittal deadlines under penalty of rescission are established for applicants with reserved CTEFP funds pursuant to Section 1859.194(d), and for applicants requiring a loan of their entire matching share pursuant to Section 1859.194(b). All approved CTEFP projects are subject to the substantial progress time limits in Education Code Section 17076.10(b).

Proposed adoption of Regulation Section 1859.198 specifies that applicants are subject to the time limit on apportionments as outlined in Education Code Section 17076.10 and substantial progress requirements pursuant to Regulation Section 1859.105.

Proposed adoption of Regulation Section 1859.199 identifies the time when a CTEFP project shall be deemed complete, that a completed project is subject to a Program Accountability Expenditure Audit, and that applicant districts may not retain savings realized by a CTEFP project.

Existing Form SAB 50-04, *Application for Funding*, is submitted to apply for State funding for new construction or modernization projects. The proposed amendments require a written statement from the school district's career technical advisory committee that the district's needs for vocational and career technical facilities are being adequately met and are consistent with listed Education Code Sections. In addition, specific instructions and data fields are added, and a district certification modified to accommodate the new category of CTEFP facilities.

Existing Form SAB 50-05, *Fund Release Authorization*, is used by applicants to request the release of State funds that have been apportioned by the SAB, upon the applicant's certification of compliance with specific requirements of law and the SFP Regulations. General instructions and data fields are added to accommodate the new category of CTEFP facilities. In addition, the proposed amendments require written confirmation that the school district's need for vocational and career technical facilities is being adequately met consistent with listed Education Code sections.

Proposed adoption of Form SAB 50-10, *Application for Career Technical Education Facilities Funding* (New 01/07), is submitted by eligible school districts or joint powers authorities to request a CTEFP grant for either a new construction project or a modernization project, including the ability to request a project loan pursuant to proposed Regulation Section 1859.194. The proposed form lists required supporting documents, and sets forth certifications of compliance with law and

regulations to which the applicant's representative must sign.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)-(4) of Section 4, Title 1, CCR. These regulations only apply to school districts

for purposes of funding school facility projects under the SFP.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than October 1, 2007, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

| | |
|------------------|---|
| | Robert Young, Regulation Coordinator |
| Mailing Address: | Office of Public School Construction 1130 K Street, Suite 400 Sacramento, CA 95814 |
| E-mail Address: | robert.young@dgs.ca.gov |
| Fax No.: | (916) 445-5526 |

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who

submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the

agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD
PROPOSES TO AMEND AND
ADOPT THE FOLLOWING REGULATION
SECTIONS, ALONG WITH ASSOCIATED
FORMS, TITLE 2, CALIFORNIA CODE OF
REGULATIONS, RELATING TO SCHOOL
FACILITIES NEEDS ASSESSMENT AND
EMERGENCY REPAIR PROGRAM

REGULATION SECTIONS PROPOSED FOR
AMENDMENT: 1859.302, 1859.318, 1859.320,
1859.321, 1859.322, 1859.323, 1859.323.1,
1859.323.2, 1859.324, 1859.326, 1859.328 AND
1859.329.

REGULATION SECTIONS PROPOSED FOR
ADOPTION: 1859.324.1 AND 1859.330.

FORM PROPOSED FOR AMENDMENT

Grant Request, Form SAB 61-03 (Revised 01/07),
referenced in Regulation Section 1859.302

FORM PROPOSED FOR ADOPTION

Expenditure Report, Form SAB 61-04 (New 01/07),
referenced in Regulation Section 1859.302

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend and adopt the above-referenced regulation sections, and associated forms, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend and adopt the above regulation sections under the authority provided by Sections 17592.72 and 17592.73 of the Education Code. The proposals interpret and make specific reference to Sections 17592.70, 17592.71, 17592.72 and 17592.73 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Emergency Repair Program (ERP) was established through Senate Bill (SB) 6, Chapter 899, Statutes of 2004 (Alpert), to provide funding to local educational agencies (LEAs) to identify and repair conditions which threaten the health and safety of pupils and staff on eligible California school sites. SB 6 was enacted as a part of the settlement agreement in the case of *Williams v. State of California* (Superior Court, San Francisco, No. CGC-00-312236). The SAB adopted regulations to implement the ERP which were approved by the Office of Administrative Law and filed with the Secretary of State on May 31, 2005. Criteria are provided for program eligibility, apportionment of funds, program reporting requirements, authorized expenditures, and audits of program compliance and expenditures.

The SAB, at its January 24, 2007 meeting, adopted proposed emergency regulatory amendments for the purpose of implementing statutory changes to the ERP as a continuation of the provisions of the Williams lawsuit settlement, pursuant to Assembly Bill 607, Chapter 704, Statutes of 2006. The amendments will enable LEAs to request grant funding under the ERP for eligible repair and replacement projects, encourage increased ERP participation, and expedite funding to help ensure that all California school children have equal access to safe, clean, and functional school facilities. At its March 28, 2007 meeting, the SAB approved limited funding for costs to prepare and submit application documents for ERP funding.

The proposed regulatory amendments and adoption of new sections are summarized as follows:

Existing Regulation Section 1859.302 defines words and terms that are essential to these regulations. The proposed amendments add definitions of "Grant" and "Grant Adjustment" for ERP apportionments, define the proposed revised Form SAB 61-03 and new Form SAB 61-04, 1859.322(b)(1), clarify that apportionments can be for eligible projects already completed or that will be completed, and clarify that the Unfunded List may also include projects partially funded under Section 1859.322(b)(1).

Existing Regulation Section 1859.318 specifies the permissible uses of the Needs Assessment Grant funds.

The proposed amendments delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs, and add reference to Education Code Section 17592.72.

Existing Regulation Section 1859.320 describes the ERP as funding for qualifying LEAs to repair or replace structural components or building systems that pose a health and safety threat, and require the submittal of Form SAB 61–03 to apply for ERP funding. The proposed amendments delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs, and delete a sentence which is no longer applicable due to the revised Form SAB 61–03.

Existing Regulation Section 1859.321 describes the eligibility of LEAs to apply for ERP funding for schools which meet specified criteria, including ranking by the California Department of Education (CDE) in deciles 1 to 3 on the 2003 Academic Performance Index. The proposed amendment specifies that for Fiscal Year 2007/08 and subsequent fiscal years, eligibility will be determined by a later year's Academic Performance Index as determined by the CDE pursuant to Education Code Section 17592.72.

Existing Regulation Section 1859.322 describes the process for the SAB to receive and approve ERP funding applications, the ordering of approved projects for available program funding, and the prorating of apportionments and creation of an Unfunded List when program funds are insufficient. The proposed amendments specify that Grant Adjustments will be funded in the order of the OPSC's receipt of completed Forms SAB 61–04 from LEAs, but when program funds are insufficient all Grant Adjustments will be placed on the Unfunded List. When funds become available, Grants will be funded first and Grant Adjustments will be funded second.

Existing Regulation Section 1859.323 provides that ERP reimbursement will be provided to LEAs for their share of repair costs for Emergency Facilities Needs as defined in Education Code Section 17592.72(c)(1); and for replacement of structural components or building systems if in compliance with Section 1859.323.1. Reimbursement is limited to the cost necessary to mitigate the health and safety hazard. The proposed amendments delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs, add a minimum ERP funding eligibility level of \$5,000 total project costs unless the LEA can justify its request for a lesser amount, and permit ERP funding for application documentation preparation and submittal costs as limited under Regulation Section 1859.323.2(j).

Existing Regulation Section 1859.323.1 prescribes criteria for replacement projects to qualify for ERP funding, taking into account the cost effectiveness of re-

placement versus repair, and the use of like-kind materials/systems or alternative materials/systems. The proposed amendments clarify the allowable funding depending upon the availability and comparative costs of such repairs and/or replacements, and delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs.

Existing Regulation Section 1859.323.2 lists expenditures which are ineligible for funding under the ERP. The proposed amendment adds subsection (j) limiting application documentation preparation and submittal costs to two percent of the total project cost or \$5,000, whichever is less.

Existing Regulation Section 1859.324 sets forth time limits for emergency repair projects to be eligible for ERP funding depending upon dates contracts were entered into and dates project costs were expended. The proposed amendments delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs, and specify time limits for ERP submittals by schools ranked in deciles one to three based on the 2003 Academic Performance Index, 2006 Academic Performance Index, or 2009 Academic Performance Index.

Proposed adoption of Regulation Section 1859.324.1 specifies that an Office of Public School Construction (OPSC) audit of a completed ERP project will require a Grant Adjustment to be presented to the SAB to either return to the State the part of the grant apportionment that exceeded allowable project expenditures, or to recommend increasing the apportionment to the extent allowable project expenditures exceeded the grant apportionment.

Existing Regulation Section 1859.326 authorizes audits of ERP project expenditures for compliance with applicable program regulations. Time limits for commencing and completing audits are set forth. Should an audit find authorized project expenditures were less than the ERP Grant, LEAs must return over-appropriated funds to the State within 30 days. The proposed amendments increase to 60 days the time period for LEAs to return over-appropriated funds, clarify the collection procedure for non-payment by LEAs, and set forth references to applicable regulation section numbers.

Existing Regulation Section 1859.328 specifies the permissible uses of the ERP Grant funds, and that LEAs must comply with listed State School Deferred Maintenance Program funding requirements. The proposed amendments specify that LEAs must comply with the listed requirements upon submitting their *Expenditure Report*, Form SAB 61–04, and delete the restriction that ERP funding may only be reimbursement for funds already expended by LEAs.

Existing Regulation Section 1859.329 permits a LEA to withdraw, revise, and resubmit its Form SAB 61-03 before the project receives an apportionment from the SAB. The resubmitted application receives a new, later processing date from the OPSC. Revising the Form SAB 61-03 after SAB approval of a project apportionment cannot authorize additional funding for the project. The proposed amendments allow LEAs to submit Form SAB 61-04 after the SAB Grant Apportionment, to request additional authorized project costs which exceeded those on the Form SAB 61-03, provided they pertain to the project's original scope. In addition, it is specified that the SAB's provision of a Grant Adjustment for a project constitutes full and final funding.

Proposed adoption of Regulation Section 1859.330 specifies time limits for LEAs which receive ERP Grants to complete the project and submit the Form SAB 61-04, *Expenditure Report*, to the OPSC. The time limit is 12 months from the Grant Apportionment if review and approval from the Division of the State Architect (DSA) is not required, and 18 months from the Grant Apportionment if review and approval from the DSA is required. Apportionments will be rescinded for failure to meet these time limits, with rescinded funds returned to the State for future ERP funding. Rescinded projects may be re-filed if still eligible at the time of re-filing.

Existing Form SAB 61-03, *Application for Reimbursement and Expenditure Report*, is required to be submitted by LEAs to apply for ERP funding for repair and replacement costs. The LEA representative must sign certifications of correct information, program compliance, and Public Contract Code compliance. The proposed amendments rename the form from "*Application for Reimbursement and Expenditure Report*" to "*Grant Request*," revise the narrative and data fields to accommodate either grant or reimbursement funding requests, delete expenditure reporting, and reduce the form from five to three pages.

Proposed adoption of Form SAB 61-04, *Expenditure Report* (New 01/07), is submitted by LEAs to report expenditures under the ERP that support the grant previously received. The proposed form lists supporting documents which the applicant should retain on file and which may be requested upon a close-out audit by the OPSC. The proposed form also sets forth certifications of compliance with law and regulations to which the applicant's representative must sign.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate

or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)-(4) of Section 4, Title 1, CCR. These regulations only apply to school districts/ local educational agencies for purposes of funding emergency repair projects under the ERP.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S.

mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than October 1, 2007, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulation
Coordinator
Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814
E-mail Address: robert.young@dgs.ca.gov
Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation

coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3591.20(a) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Eradication Area as an emergency action that was effective on July 13, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 9, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before October 1, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The amendment of subsection 3591.20(a) established Los Angeles and Solano counties as eradication areas for the light brown apple moth, *Epiphyas postvittana*. The effect of these actions was to establish authority for the State to conduct eradication activities in Los Angeles and Solano counties against this pest. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that the amendment of Section 3591.20 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3591.20 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendment of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be

more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend subsections 3591.20(a) pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend subsections 3591.20(a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and

strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture adopted Section 3434 of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on April 20, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 17, 2007.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on June 6, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than December 3, 2007.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on June 7, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than December 4, 2007.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsections 3434(b) and (c) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on June 21, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than December 18, 2007.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on July 18, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 14, 2007.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before October 1, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The adoption and subsequent amendments of 3434 established light brown apple moth, *Epiphyas postvittana*, as the regulated pest; portions of Alameda, Contra Costa, Los Angeles, Marin, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz and Solano counties as the regulated areas; nursery stock, green waste, fresh garlands, wreaths, cut flowers, greens and all fruits and vegetables as articles and commodities regulated; and, the exemptions; and, the restrictions on

movement, both within and from the regulated area, on those articles and commodities covered. There is no existing, comparable federal regulation or statute regulating the intrastate movement.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that the adoption of Section 3591.20 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3591.20 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to 0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current require-

ments of Section 3060.2, Standards of Cleanliness, California Code of Regulations (CCR), and cannot be sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

ASSESSMENT

The Department has made an assessment that the proposed adoption of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend subsections 3591.20(a) and (b) pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend subsections 3591.20(a) and (b), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed adoption of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916)

654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Board of Forestry and Fire Protection Title 14 of the California Code of Regulations

[Notice Published August 17, 2007]

NOTICE OF PROPOSED RULEMAKING

Emergency Notice for Fuel Hazard Reduction, 2007

The Board proposes to adopt the following sections of Title 14 of the California Code of Regulations (14 CCR):

Amend:

- | | |
|---------|------------------|
| § 895.1 | Definitions |
| § 1052 | Emergency Notice |

- § 1052.1 Emergency Conditions
- § 1052.4 Emergency Notice for Fuel Hazard Reduction

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

PUBLIC HEARING

The Board will hold a public hearing on Wednesday, October 10, 2007, starting at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code Section 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, October 1, 2007. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

AUTHORITY AND REFERENCE

Public Resources Code (PRC) 4551 authorizes the Board to adopt such Rules and regulations as it determines are reasonably necessary to enable it to implement, interpret, or make specific sections 4513, 4514.3, 4551.5, 4551.7, 4552, 4553, 4562, 4582, 4584 and 4592 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California State Board of Forestry and Fire Protection (Board) proposes amendments to regulations for timber harvest practices that reduce wildfire threat and hazardous fuel conditions in the State's private timberlands. The amendments proposed modify fuel treatment standards, modify the minimum post harvest stocking standards, clarify treatment requirements, and establish a rule extension period. The proposal includes several Options among which the Board may choose as part of the action.

The proposal addresses the urgent, extensive and ongoing wildfire hazard existing on private forest lands resulting from the combination of increasing quantity and arrangement of natural vegetation. The proposed regulation addresses fuel treatment modifications that are more cost efficient to apply while meeting hazard reduction goals. Finally, the rule proposal is necessitated by the pending expiration of the existing regulation on January 1, 2008.

Regulation Purpose and Necessity

14 CCR § 895.1 Definitions

The California Forest Practice Rules commonly utilize definitions of technical terms in the regulation text that are generally recognized by federal and state agencies, as well as the forest products industry representatives. However, the Forest Practice Rules under 14 CCR § 895.1 (Definitions) do not include a comprehensive listing of applicable definitions proposed for use in the regulation. Definitions are being added to allow for new terms and provide brevity and clarity in the proposed rule. Definitions being added include: *Fuels*, *ladder fuel*, and *surface fuel*. These definitions are needed to ensure that the prescribed fuel treatment method is applied to the appropriate fuel.

Two options for an extension period of definitions:
The Board has provided Options for the length of time

the definitions are effective. The dates coincide with other options for length of effective period for the entire regulation section. Option 1 provides for an extension of the definition until January 1, 2013. Option 1A, deletes the expiration date making the rule and the related definitions permanent with no expiration.

One definition is proposed for deletion. The deleted definition, *Average Severe Fire Weather Conditions*, is eliminated as it was used as part of the four foot flame length rule, which has been deleted as part of this proposal.

Amend 14 CCR § 1052 Emergency Notice

This amendment provides two options (Options 1 and 1A). Option 1 extends the rule for five years until January 1, 2013. Option 1A makes the rule permanent with no expiration. The Board must select one of these options. Additionally, amendments to this subsection also delete the reference to regulation intent where post harvest conditions meet the four foot flame length performance standards.

Amend 14 CCR § 1052.4 Emergency Notice for Fuel Hazard Reduction

Subsection (a)(4) is deleted. This deletion eliminates the use of the photo series as examples of compliance with the four foot flame length post harvest performance standard. With the Board proposing more measurable fuel treatment standards, and replacing the four foot standards, these photos series no longer solely depict the post harvest conditions and are unnecessary.

Two Options for locations where the regulation applies: Amendments to subsection (c)(5) and (6) clarify which mainline roads and fuelbreaks are eligible for treatments under terms of the regulation. Option 4 and 4A are proposed, and the Board must choose one of the options.

Option 4 deletes existing language for subsections (c)(5) and (6) and adds new language. The new language under Option 4 requires written concurrence of a public fire agency or acceptance by the Director for treatments within 500 feet of mainline roads or fuelbreaks. The deleted language required mainline roads or fuelbreaks eligible for this regulation to be identified in a fire prevention plan. Option 4 may increase the number of roads or fuelbreaks eligible for treatment under this regulation because not all areas have fire prevention plans. Option 4A would retain the existing language with no deletion or addition of text. Retaining existing language under Option 4A improves reliability that the most appropriate roads and fuelbreaks are being treated under terms of this regulation.

Subsection (d)(3)(B) adds a fuel treatment standard for post harvest trees. The requirement specifies retaining no more than 200 trees per acre. This is intended to ensure that an adequate number of trees are removed to

achieve adequate fire hazard reduction goals for the tree portion of the fuel profile.

Three options for post harvest Minimum Stocking Standards: Subsection (d)(4) amends the minimum post harvest stocking standard when preharvest conditions do not meet Commercial Thinning stocking standards. This amendment addresses situations in lower stocked forested areas of Southern California where tree densities do not meet Commercial Thinning standards, yet some level of commercial fuel hazard reduction is necessary. Three options are provided to the Board. The Board can adopt one of the options or none of the options.

Option 2 adds the requirement that postharvest stocking standards shall meet the basal requirements (but not the seed tree requirement) of the Selection silvicultural system standards for the Southern District when Commercial Thinning stocking levels are not found in the preharvest forest. While the differences between the Commercial Thinning standards and the Selection standards are not great, Option 2 allows inclusion of additional areas where single tree Selection silvicultural systems are used or where Commercial Thinning stocking standards are not present in the preharvest setting.

Option 2A provides for the basal area requirements of the Selection system standards for any Forest Practice District in the State, as low stocked forest conditions are found in areas other than southern California.

Option 2B requires both the basal area and seed tree retention standards of the Selection system for post harvest minimum stocking standard. Option 2B would be applicable to all Forest Practice Districts in the State. Option 2B ensures that an adequate number of seed trees are retained on the site to accomplish reforestation goals of the seed tree silvicultural system.

Three options for modifying fuel treatment standards: Subsection (d)(5) modifies the post harvest vegetative treatment standards. These amendments are the most substantive changes to the regulatory proposal as they address which hazardous fuels must be reduced. All options of this amendment replace the “four foot” flame length requirement with standards that are more prescriptive and measurable. All options 1) provide hazard reduction for fuels which must be treated to avoid fire spreading to the larger trees, 2) provide fire intensity conditions (heat levels) that allow fire fighting crews to take direct suppression tactics for some forest settings, 3) reduce economic impacts and costs incurred by landowners by permitting efficient fuel removal, 4) diminish the likelihood that soil erosion environmental effects would occur due to landowners “cleaning” the forest floor, 5) increase retention of wildlife habitat in the form of hiding cover for small animals, and 6) im-

prove forest resistance to invasive species by allowing forest floor vegetation cover to be retained.

All options for these amendments have a significant economic benefit to landowners. They reduce the expense of brush removal, and intensive treatment of debris on the forest floor. Expected savings of \$200 to \$400/acres in reduced fuel treatment costs, compared to the four foot flame length standards, could be attained while still substantially improving fire safe conditions.

The options for subsection (d)(5), Option 3, 3A, 3B or 3C, are mutually exclusive and one must be chosen.

Option 3 of subsection (d)(5) requires that any dead fuel in the post harvest stand be vertically separated from other fuels. Slash created by the timber harvesting operation would be treated to achieve a maximum depth of less than nine inches of activity slash after harvesting. This Option does not require treatment of existing brush, dead and down surface fuels, or general removal of dead trees or logs. The prescription would reduce fire hazard, especially in forest stands where there are many overstocked trees and little brush or debris on the forest floor.

Option 3A of subsection (d)(5) proposes prescriptions similar to the Board's defensible space standards adopted under 14 CCR 1299, in 2006. These standards were adopted for hazard reduction for areas within 100 feet of homes. Under this proposal, all geographic areas of the rule would use this standard. The standard requires spacing of surface and ladder fuels (grasses, downlogs, shrubs and trees). The prescription establishes both horizontal and vertical spacing between all post harvest fuels. This standard reduces brush and forest floor surface fuel loading conditions. Such conditions provide safer access for fire fighters making direct attacks on flaming fire conditions. It will substantially limit vertical spread of fire, which is a prerequisite for fires which completely burn all standing vegetation and trees. This prescription will likely be more expensive to implement compared to Option 3, as removal of brush and dead and down surface fuels is required.

Option 3B of subsection (d)(5) proposes a combination of Option 3 and 3A where operations within 1320 feet of areas of higher densities of homes, 500 feet of isolated structures, and 500 feet of fuelbreaks require treatment of all fuels (treatments specified in Option 3A). In other areas away from homes or fuelbreaks, treatment of logging slash created by harvesting operations (Option 3) is required. This Option balances the need for intensive (and more expensive) fuel hazard reduction near homes and fuelbreaks with lesser intensive (less expensive) treatments for roads and other feature outside of the wildland urban interface. It provides for a greater distance of more intensive fuel treatments for high density home areas compared to Option 3C below.

Option 3C of subsection (d)(5) also is a combination of Option 3 and 3A where operations within 500 feet of any structure and 500 feet from fuelbreaks require treatment of all fuels (treatments specified in Option 3A). Outside of 500 feet from structures and fuelbreaks, treatment of logging slash created by harvesting operations (Option 3) is required. This Option balances the need for intensive (and more expensive) fuel hazard reduction near homes and fuelbreaks with lesser intensive (less expensive) treatments for roads and other feature outside of the wildland urban interface. It provides a lesser distance of more intensive fuel treatments for high density home areas compared to Option 3B (500 feet vs. 1320 feet).

Subsection (d)(6) deletes fuel treatment text which was moved to another subsection for consistency of language.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None are known.
- Potential cost impact on private persons or directly affected businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. Small businesses should benefit from the reduction in regulatory requirements resulting from filing of an Emergency Notice instead of a Timber Harvest Plan for conducting operations under this regulation.

- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.
- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, Chief Environmental Protection and Regulation, Department of Forestry and Fire Protection, at the above address and phone number (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using the following styles is also available from the contact person named in this notice:

- 1) language existing before 8/17/07 is shown in PLAIN TEXT,
- 2) language being proposed as either an amendment or new section is DOUBLE-SPACED AND SINGLE UNDERLINED,

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings;
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) Requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

[Notice Published August 17, 2007]

NOTICE OF PROPOSED RULEMAKING

AB 1515, Forest Fire Prevention Exemption, 2007

The Board of Forestry and Fire Protection (Board) proposes to amend and adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend 14 CCR § 1038(i) Exemption

PUBLIC HEARING

The Board will hold a public hearing starting at 8:00 A.M., on Wednesday, October 10, 2007, at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., Monday, October 1, 2007. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416^{9th} Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) 4551 and 4554.5 authorize the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4513, 4551.5, 4561 and 21080.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California State Board of Forestry and Fire Protection (Board) is promulgating a regulation to implement legislative amendments to Public Resources Code (PRC) 4584 (k) authorized under Assembly Bill (AB) 1515. This legislation will, if passed, authorize the Board to modify fuel treatment standards and other requirements of the Forest Fire Prevention Exemption contained in 14 CCR 1038(i). This Forest Fire Prevention Exemption exempts persons who conduct timber operations from preparing and submitting Timber Harvest Plans, completion reports, and stocking reports when harvesting trees and other commercial forest products for the purpose of reducing the rate of fire spread, fire duration and intensity, fuel ignitability, and ignition of tree crowns.

SPECIFIC PURPOSE OF THE REGULATION

The primary purpose of the proposed regulation is to modify the fuel treatment standards to reduce economic

impacts while reducing the wildfire hazard in the treated forest areas. The amendments modify fuel treatment standards for economic efficiency, delete the four foot flame length standard, establish new treatment standards that reduce fire hazards, clarify treatment requirements for better compliance and consistency, and establish a rule extension period. Substantive requirements and limitations of the proposed regulation include:

Subsection 1038(i)(6) is amended to allow sample marking of trees to be harvested or retained. Sample marking would be permitted only in certain situations such as forest types with homogeneous characteristics similar to plantations. Sampling marking is expected to reduce cost of implementation as fewer trees would be designated with a paint stripe and stump mark. The subsection is also amended to focus marking and harvesting prescriptions on the need for wildlife habitat requirements valuable to long term wildlife populations.

Subsection 1038(i)(8) is amended to clarify how the maximum tree diameter size permitted to be harvested shall be measured for inspection purposes. The amendment specifies the maximum diameter shall be measured from outside bark of the stump. The amendment improves enforceability of the regulation and reduces confusion for inspectors during compliance inspections.

Subsection 1038(i)(10)(A) modifies fuel treatment standards by incorporating Board adopted “defensible space” guidelines found in 14 CCR 1299. The proposed amendments require certain separation or spacing between surface debris, shrub, and smaller tree fuels after harvesting. The proposed amendments would be applicable to areas within 500 feet of homes or firebreaks. The proposed amendments 1) provide hazard reduction for fuels which must be treated to avoid fire spreading to the larger trees, 2) provide fire intensity conditions (heat levels) that allow fire fighting crews to take direct suppression tactics for some forest settings, 3) reduce economic impacts and costs incurred by landowners by permitting efficient fuel removal, 4) diminish the likelihood that soil erosion environmental effects would occur due to landowners “cleaning” the forest floor, 5) increase retention of wildlife habitat in the form of hiding cover for small animals, and 6) improve forest resistance to invasive species by allowing forest floor vegetation cover to be retained.

Subsection 1038(i)(10)(B) focuses on reducing the number of trees per acre to eliminate overstocking of trees, reducing the spread of fire from tree to tree, and improving forest health. It applies to areas further than 500 feet from homes or fuelbreaks. The requirement specifies retaining no more than 200 trees per acre, and reducing depth of slash created by harvesting to a maximum depth of 9 inches. The proposed amendments en-

sure that an adequate number of trees are removed to achieve fire hazard reduction goals for the tree portion of the fuel profile. It will substantially reduce harvesting operation costs by eliminating the requirement for removal of brush or surface debris found on the site prior to harvesting.

Subsection 1038(i)(11) deletes the “four foot” flame length requirement with standards in subsection (10)(A) and (B). Additionally, the proposed amendment adds clarification of timing of completion of fuel treatment requirements. The amendment clarifies that slash and fuels must be treated within 120 days of commencement of operations (except for burning) in any area where operational treatments have begun, rather than in the entire exemption project area. The amendment ensures that timely completion of fuel treatment is accomplished.

Subsection 1038(i)(13) requires projects conducted in the Lake Tahoe Region to comply with resource protection standards applicable to Lake Tahoe Region exemptions under 14 CCR 1038(f). The resource protection standards applicable to Lake Tahoe Region are different from requirements for exemptions in other parts of the State. The amendment improves regulatory consistency.

Subsection 1038(i)(15) provides an expiration date of January 1, 2008, after which this class of exemption would be terminated. This expiration provides the Board with the opportunity to revise the regulation to improve effectiveness, evaluate the extent of the fuel hazard exemptions completed, and adjust the exemption to avoid any long term unintended consequences.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None are known.

- Potential cost impact on private persons or directly affected businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. Small businesses should benefit from the reduction in regulatory requirements resulting from filing of an Emergency Notice instead of a Timber Harvest Plan for conducting operations under this regulation.
- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.
- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. DEPARTMENT OF CONSERVATION

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Department proposes to amend its Conflict-of-Interest Code to include employee positions that involve making decisions or participating in making decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

These amendments delete position titles that are no longer in use and add position titles that involve making governmental decisions by (1) voting on a matter, (2) obligating or committing the Department, or (3) entering into contractual agreements for the Department. The amendments also add position titles that participate in the making of governmental decisions by (1) negotiating on behalf of the Department or (2) advising or making recommendations to the decision maker by (a) conducting research or (b) preparing reports, analyses or opinions.

With these amendments, the Department is moving away from listing designated positions according to organizational structure in favor of listing designated positions by classifications and series, irrespective of the work unit to which the positions are assigned. This will reduce the need to make sweeping changes to the conflict of interest code based only on branch/unit name changes and reorganizations. This approach has already been adopted by the Division of Recycling in the existing code. These amendments apply the concept to the entire Department.

These amendments also make other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than October 1, 2007, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than September 17, 2007, by contacting the Contact Person set forth below.

The Department has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Department has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Department must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Sandra St. Louis
Human Resources Office
Department of Conservation
801 K Street, MS 22-13
Sacramento, CA 95814
Telephone: (916) 322-0238
e-mail: Sandra.St.Louis@conservation.ca.gov

TITLE 14. DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED ACTION

AB 3056 Handling Fee Permanent Regulations

CALIFORNIA CODE OF REGULATIONS TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling

(Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 2, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

Subchapter 2. General Requirements

Article 5. Administrative Actions

§ 2125. INSPECTION AUTHORITY

Subsection 2125(a)(5) has been amended to add Public Resources Code Section 14585 which gives the Division the authority to obtain allowable cost survey data from certified recycling centers.

Section 14536(b) has been added to the Authority Section of Section 2125 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the California Beverage Container Recycling and Litter Reduction Act (Act).

Section 14585 has been added to the Reference Section of Section 2125 to give the Division the authority to collect Handling Fee Cost Survey data from certified recycling centers.

Subchapter 6. Recycling Centers

Article 2. Handling Fees

Subsection 2518(a)(1) has been amended to delete (a)(3) and add (e) to reference the appropriate subsection of Section 14585 to allow the Department to utilize a standard container per pound rate for each material type to calculate handling fee payments.

Subsection 2518(a)(2) has been amended to add (A) to Section 14585(a) (2) because (A) was added to Section 14585(a)(2) in AB 3056.

Subsections 2518(a)(4)(A) and (B) have been deleted because these sections are no longer necessary. Section 14585(a)(5)(A) of the Act was revised in AB 3056 to state the amount of the handling fee per eligible container until June 30, 2008. Section 14585(a)(6)(A) of the Act states the handling fee payment cannot be more than \$2,300 per month. Thus, it is redundant to also have Sections 2518(a)(4)(A) and (B) of the regulations state the amount of the handling fee payment. New Section 14585(a)(5)(B) of the Act, states that on and after July 1, 2008, the department shall pay a handling fee per eligible container in the amount determined pursuant to subdivision (f). Section 14585(f) of the Act is a new subsection and it describes how the handling fee cost survey will be conducted.

New Subsection 2518(a)(4) has been added because AB 3056 requires the Department to pay a handling fee per eligible container as determined by the handling fee cost survey required in Section 14585(f) of the Act.

Subchapter 12. DOR Requirements

Article 3. Handling Fee Payments

Article 3. Handling Fee Payments has been added to Subchapter 12. because AB3056 requires the Department to conduct a cost survey in 2007, and every two years thereafter, to determine future handling fee payments beginning with the payments for the 2008/2009 fiscal year.

New Section 2990. Allowable Costs for Handling Fee Recycling Centers has been added to the regulations. AB 3056 added Section 14585(f)(1) of the Act. Section 14585(f)(1) requires the Department to include only those allowable costs contained in the regulations adopted by the Department to conduct cost surveys pursuant to Subdivision (b) of Section 14575. Thus, the costs in new Section 2990 are the same as the costs in Section 2960 Allowable Costs for Recycling Centers and Section 2965 Allowable Costs for Processors.

Section 14536(b) has been included in the Authority Section of Section 2990 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the Act.

New Section 2995. Allocation of Allowable Costs for Handling Fee Sites has been added to the regulations. This section has been added to the regulations because AB 3056 requires the Department to use only those allowable costs currently authorized by statute and defined in Sections 2960 and 2965 for recycling centers and processors. This new section is necessary to mirror Section 2970 for the cost surveys conducted pursuant to Section 14575(b) of the Act.

Section 14536(b) has been included in the Authority Section of Section 2995 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the Act.

New Section 2997. Notification of Handling Fee Changes has been added to the regulations. This section has been added to the regulations because AB 3056 requires the Department to calculate the handling fee payment by using cost surveys in conjunction with the cost surveys performed by the Department to determine processing payments and processing fees. Thus, the Department will give notice of handling fee changes to interested persons 15 days before the effective date of the change. The Department provides written notice of revised, terminated or newly established processing fee and processing payments to all interested persons at

least 15 days prior to the effective date of the proposed change.

Section 14536(b) has been included in the Authority Section of Section 2997 to cite the Division's authority to adopt emergency regulations to implement Section 14585 of the Act.

INFORMATION IS AVAILABLE UPON REQUEST

Copies of the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 "K" Street, 19th Floor, Sacramento, California. For general or substance questions regarding this file, please contact the agency contact person, Karen Denz, at (916) 322-1899. The backup agency contact person for this rulemaking file is Eloisa Hernandez, who may be contacted at (916) 327-2757. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on October 1, 2007. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Karen Denz, AB 3056 Handling Fee Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@consrv.ca.gov, or faxed to (916) 323-0732.

PUBLIC HEARING

A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later

than 15 days prior to the close of the written comment period.

SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE

Following the public comment period, the Department will adopt the regulations without further notice. However, if the Department chooses to substantially alter or revise the proposed regulatory action, a revised notice, called a renote, and the amended version of the proposed text of the regulations will be made available to the public for another public comment period for fifteen (15) days prior to its adoption. Those persons who testified at the public hearing, if held, or submitted written comments at the public hearing, or whose comments were received by the Department during the public comment period, or who requested notification from the Department of the availability of changes to the text of the proposed regulations, will be sent any renotes.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 3056 changes the way handling fee payments to convenience zone recyclers are calculated. AB 3056 institutes a new system to determine handling fee payments per container. The Department previously conducted cost surveys to determine the cost of recycling each material type at non-handling fee recipient recyclers. This survey determined whether it costs the recycler more to accept, process and ship materials than the current scrap value for each material type. AB 3056 gives the Department the authority to conduct cost surveys of handling fee recipient recyclers. The Department must perform a separate cost survey of handling fee recipient recyclers and compare the costs to those of non-handling fee recipient recyclers. The cost differential between the cost of recycling the two types of containers will be the new handling fee payment per container. The Department is authorized to perform the cost surveys every other year, and the next scheduled survey is for calendar year 2007.

Emergency regulations were filed with the Office of Administrative Law (OAL) and became effective on February 5, 2007. These emergency regulations were necessary in order to ensure that the cost survey criteria were in place prior to the cost surveys being started in early 2007. This cost survey will be performed in conjunction with the cost survey performed by the Division to determine processing payments and processing fees. Handling fee site costs will be compared with the costs of non-handling fee sites. The handling fee will be calculated by subtracting the non-handling fee site costs from the handling fee site costs. This calculation will be

used to determine the handling fee payments on and after July 1, 2008. These proposed regulations will make the emergency regulations permanent to implement the provisions in AB 3056 for the handling fee calculation.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code subsections 14530.5(b) and 14536(b).

REFERENCE

Public Resources Code Sections 14504, 14513.4, 14526.6, 14537, 14538, 14539, 14540, 14549.1, 14575, 14581, and 14585.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630: The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Cost or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: The Department has determined that no significant impact to California private persons or directly affected businesses will result from the

adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will insignificantly affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: www.conservation.ca.gov.

**TITLE 15. BOARD OF PAROLE
HEARINGS**

**TITLE 15. CRIME PREVENTION AND
CORRECTIONS**

DIVISION 2. BOARD OF PAROLE HEARINGS

(formerly known as "Board of Prison Terms")

CHAPTER 6. PAROLE REVOCATION

**ARTICLE 2. PAROLE VIOLATIONS
AND REPORTS**

**AMENDMENTS TO SECTION 2616
REPORTABLE INFORMATION
NOTICE OF PROPOSED RULEMAKING
RN 07-03**

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (Board) proposes to amend Title 15, Division 2, California Code of Regulations (CCR) § 2616 updating the reportable information for which the Board is authorized to revoke parole to include violations of residency restrictions for sex offenders.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed regulatory action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Board. **THE WRITTEN COMMENT PERIOD ON THIS PROPOSED REGULATORY ACTION WILL COMMENCE ON AUGUST 17, 2007, AND WILL CLOSE AT 5:00 P.M. ON OCTOBER 1, 2007.** All comments must be submitted in writing (by mail, fax or e-mail) to the Agency Contact Person identified in this Notice by that time in order for the comments to be considered by the Board. Submit comments to:

Devaney Sullivan, Regulations Coordinator
Board of Parole Hearings
PO Box 4036
Sacramento, CA 95812-4036
Telephone: (916) 322-6815
Facsimile: (916) 445-4086
E-mail: Devaney.Sullivan@cdcr.ca.gov

AUTHORITY

These regulations are submitted pursuant to the Board's authority under Government Code § 12838.4 and Penal Code §§ 3052 and 5076.2.

REFERENCE

These regulations are amended to implement, interpret, and/or make specific section 3003.5 of the Penal Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Government Code § 12838.4 vests the Board of Parole Hearings with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the former Board of Prison Terms and Narcotic Addict Evaluation Authority, which no longer exist.

Penal Code § 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go on parole outside of prison when eligible for parole.

Penal Code § 5076.2 authorizes the Board to promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

The Board must amend its current regulations to implement Proposition 83 in order to carry out the intent of the law, which is the protection of public safety. These amendments are necessary as they update the reportable information for which the Board is authorized to revoke parole to include violations of residency restrictions for sex offenders. The Board must implement the regulatory amendments to meet the public safety objectives of mandatorily revoking parole for sex offenders who violate residency restrictions.

**DISCLOSURES REGARDING
THE PROPOSED ACTION**

Local Mandates: The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

Fiscal Impact Statement: The Board has made the following initial determinations:

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: **None**
- Cost or savings to any state agency: **No additional costs beyond the Sex Offender Budget Change Proposal.**

- Other non-discretionary cost or savings imposed on local agencies: **None**
- Cost or savings in federal funding to the state: **None**

Significant Statewide Adverse Economic Impact on Business: The Board has determined that there is no significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with business in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effects on Job and/or Business Creation, Elimination or Expansion: The Board has determined that adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on Housing Costs: The Board has made an initial determination that the proposed action will have no significant effect on housing costs.

Small Business Determination: The Board has determined that the proposed regulation does not affect small business. This regulation directly affects prisoners, parolees and attorneys, who represent them.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Please direct requests for copies of the initial statement of emergency, the proposed text of the regulations, or other information upon which the rulemaking is based to:

Devaney Sullivan, Regulations Coordinator
Board of Parole Hearings
PO Box 4036
Sacramento, CA 95812-4036
Telephone: (916) 322-6815
Facsimile: (916) 445-4086
E-mail : Devaney.Sullivan@cdcr.ca.gov

In any such inquiries, please identify the action by using the Board's regulation control number RN 07-03.

Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above: Elizabeth Geiger at (916) 324-6434.

Website Access: Materials regarding this proposal can be accessed from the Board's website at http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html.

AVAILABILITY OF THE STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulations), the proposed text of the regulation, Statement of Emergency, Initial Statement of Reasons and Form 399 (Fiscal Impact Statement). Copies may be obtained by contacting Devaney Sullivan at the address or phone number listed above. Additionally, this notice of proposed action, the Statement of emergency, the Initial Statement of Reasons and the proposed text of the regulations are available on the Board's website at http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board approves modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Devaney Sullivan at the address indicated above or by visiting the Board's website at http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html. Further, The Board will accept written comments on the modified regulations for 15 days after the day on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained from the Board contact person or the Board's website at http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html.

AVAILABILITY OF DOCUMENT
ON THE INTERNET

Copies of the Notice of Proposed Action, the proposed text of the regulation and Statement of Emergency can be accessed through the Board's website at http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html.

**TITLE 16. CALIFORNIA ARCHITECTS
BOARD**

**NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS**

NOTICE IS HEREBY GIVEN that the California Architects Board (hereinafter "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the California Architects Board, 2420 Del Paso Road, Suite 105, Sacramento, California, at 10:00 a.m. on **October 10, 2007**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on **October 10, 2007**, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 5526 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 5535.1, 5535.2, 5535.3, 5536, 5582 and 5582.1 of said Code, the Board is considering changes to Division 2 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

1. Amend Section 134 — Architectural Business Names

Under existing law, only a person who is licensed by the Board as an architect is permitted to use the title architect or any terms confusingly similar to the word "architect." However, under the current regulation, an architect whose business entity uses the term "architect," "architecture," or "architectural" in the business title or description of services must also designate the name of an architect who is either an owner, partner, officer, or employee of the entity. This regulatory proposal eliminates this duplicative requirement to name the responsible architect in the title or designation of services for any business entity using the protected title or similar terms in its title or description of services as long as that entity has an architect who is in control of architects' professional services offered and provided by the entity, who is either an owner, a part-owner, an officer or an employee of the business entity and who has filed a business entity report form as required in Business and Professions Code section 5558.

2. Repeal Section 135 — Association

Under existing law, it is grounds for disciplinary action for architects to stamp and sign plans, drawings or other instruments of service that have not been prepared by them, or under their responsible control. Another existing regulation provides that an architect who associates with a person who is not an architect, civil or structural engineer or bona fide employee to jointly offer architectural services must enter into a written agreement, as specified, where the architect agrees to be responsible for the preparation of instruments of services for their work. This regulatory proposal would repeal this regulation since it is duplicative and provides no clarity on the term "jointly" offering the services.

FISCAL IMPACT ESTIMATES

- Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: **None**
- Nondiscretionary Costs/Savings to Local Agencies: **None**
- Local Mandate: **None**
- Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: **None**

- Business Impact: The Board has made an initial determination that the proposed regulatory changes would have minor statewide adverse economic impact directly affecting business entities operating in violation of the Architects Practice Act. However, it will provide a beneficial impact on business entities operating within the parameters of the Architects Practice Act.
- Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.
- Cost Impact on Representative Private Person or Business: The Board has made an initial determination that the proposed regulatory changes may have a minor economic impact directly affecting a representative private person or business entity operating in violation of the Architects Practice Act.
- Effect on Housing Costs: **None**

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would affect some small businesses that offer and provide architectural services. Since the changes will affect small and large businesses in the same way, see Business Impact statement above.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Architects Board at 2420 Del Paso Road, Suite 105, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Hattie Johnson
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 575-7203
Fax No.: (916) 575-7283
E-Mail Address: hattie_johnson@dca.ca.gov

The backup contact person is:

Name: Sonja Ruffin
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 575-7207
Fax No.: (916) 575-7283
E-Mail Address: sonja_ruffin@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.cab.ca.gov

**TITLE 28. DEPARTMENT OF
MANAGED HEALTH CARE**

PUBLIC HEARING

ACTION: Notice of Proposed Rulemaking Action
Title 28, California Code of Regulations

SUBJECT: Plan and Provider Claims Settlement;
Criteria for Determining Reasonable and
Customary Value of Health Care
Services; Expedited Payment Pending
Claims Dispute Resolution; Definition of
Unfair Billing Patterns; Independent
Dispute Resolution Process; Revising
Sections 1300.71 and 1300.71.38, and
Adopting Section 1300.71.39 in Title 28,
California Code of Regulations; Control
No. 2007-1253.

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may submit a written request for a public hearing, pursuant to section 11346.8(a) of the Government Code. The written request for hearing must be received by the Department's contact person, designated below, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Department of Managed Health Care, Office of Legal Services, by 5 p.m. on Monday, **October 1, 2007**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email, or via the department's website:

Website: www.dmhc.ca.gov
Email: regulations@dmhc.ca.gov
Mail: Emilie Alvarez, Regulations Coordinator
Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento, CA 95814
Fax: (916) 322-3968

Please note, if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, whether sent via the website, email, fax or mail, should include the author's name and U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Inquiries concerning the proposed adoption of this regulation may be directed to:

Rick Martin
Deputy Director
Department of Managed Health Care
Office of Provider Oversight
980 9th Street, Suite 500
Sacramento, CA 95814
(916) 445-9753
rmartin@dmhc.ca.gov

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to promulgate regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) relating to claims settlement practices between health plans and providers of health care services, including: clarifying the existing criteria for determining reasonable and customary payment of health care providers, establishing requirements for "expedited" payment of specified health care providers when the provider's claim is disputed by a health plan; defining unfair billing patterns by providers of health care services; and establishing a new Independent Dispute Resolution Process for providers who lack written contracts with health plans.

This rulemaking action proposes to revise existing sections 1300.71 and 1300.71.38, and adopt new section 1300.71.39, at title 28, California Code of Regulations. Before undertaking this action, the Director will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

This rulemaking action relates to similar subject matter addressed in two prior rulemaking actions, both recently withdrawn, titled Claims Settlement Practices, Control # 2006-0782 and Unfair Billing Patterns, Control # 2006-0777. The topics addressed in those two former rulemaking actions are now consolidated into this single rulemaking action.

Emilie Alvarez
 Regulations Coordinator
 Department of Managed Health Care
 Office of Legal Services
 980 9th Street, Suite 500
 Sacramento, CA 95814
 (916) 322-6727
evalvarez@dmhc.ca.gov

CONTACTS

In your comments or inquiries, please use the Department's regulation title and control number: **Plan and Provider Claims Settlement; Control #2007-1253.**

AVAILABILITY OF DOCUMENTS

The Initial Statement of Reasons, the text of the proposed regulation and all information upon which the proposed regulation is based (rulemaking file) are available for public review. All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the Regulations Coordinator listed above. Please call (916) 322-6727 to make an appointment.

The Notice of Proposed Rulemaking, proposed text of the regulation, and the Initial Statement of Reasons are also available via the Department's website at <http://wpso.dmhc.ca.gov/regulations/>, under the heading "Open Pending Regulations."

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Health and Safety Code sections 1341.9, 1344, and 1346 vest the Director with the power to administer and enforce the provisions of the Act. California Health and Safety Code section 1344 authorizes the Director to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of the Knox-Keene Act, including rules governing applications and reports, and defining any terms, whether or not used in the Knox-Keene Act, insofar as the definitions are not inconsistent with the provisions of the Knox-Keene Act. Furthermore, the Director has the discretion to waive any requirement of any rule or form in situations where, such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to the Knox-Keene Act.

These regulations are intended to implement, interpret, and/or make specific Health and Safety Code sec-

tions 1367(h), 1371, 1371.1, 1371.35, 1371.36, 1371.38, 1371.39, 1371.4 and 1379. More specifically, this rulemaking action will clarify the requirements for fair provider billing practices and fair health plan payment practices by: clarifying the criteria for health plans to consider in determining the reasonable and customary value of health care services rendered by providers who lack written contracts with the health plans; clarifying the nature of activities that constitute unfair billing practices by health care providers who render services to enrollees of health plans but lack written contracts with the health plans; establishing a fair and balanced approach to payment of providers pending resolution of a disputed provider claim; and implementing an independent claims payment dispute resolution process to provide health care providers with a fast, fair and cost-effective process to resolve claims payment disputes with health plans, which will provide specific determinations for claims payment amounts.

Non-Severability

The amendments proposed in this rulemaking action are designed to provide for a balanced comprehensive and integrated approach to correct and eliminate the problems in the plan-provider claims settlement systems which generate incentives for providers, especially providers of emergency services, to balance bill enrollees of health plans. Each of the proposed amendments to Title 28 is directed to a particular aspect of the claims settlement processes between health plans and physicians that has been identified as contributing to the fundamental problem, including provider billing patterns, plan payment determinations and processes, and effective provider recourse for meaningful and swift resolution of disputed claims. If one or more of the amendments proposed in this rulemaking action are held invalid, the operation of the remaining proposed amendments may have detrimental unintended consequences that will exacerbate, rather than correct, existing problems in plan-provider claims settlement systems. Accordingly, it is the Department's intent that, if any one of amendments to Title 28 adopted by the Department through this rulemaking action is held invalid by a court or agency of competent jurisdiction, the other adopted amendments shall also be invalid.

Health Care Industry Context

The most significant and frequent balance billing problems occur in the context of delivering emergency care services. Existing federal and state law require emergency care providers to provide emergency care without regard to a patient's ability to pay.¹ Emergency care providers are entitled to be paid fairly and prompt-

¹ Emergency Medical Treatment and Active Labor Act (EMTALA) 42 USC 1395dd et seq.; California Health and Safety Code section 1317 et seq.

ly for the lifesaving services rendered whenever and wherever needed. Emergency care providers have expressed concerns regarding the level of reimbursement that they receive from health plans with which they do not contract, and this concern has led to the practice of emergency care providers, who lack written contracts with health plans, seeking reimbursement directly from health plan enrollees rather than the health plans.

Health plans are legally responsible, pursuant to the Knox–Keene Act, for paying emergency care providers for covered services rendered to their enrollees. The cost of emergency services can be extraordinarily high, and Californians who prudently purchase the financial protections of health care coverage should be able to trust that their health plans will fairly and promptly reimburse medical providers who provide them care when they are seriously ill or injured and in need of emergency care.

Health plans and the Department have dispute resolution processes available for providers who lack written contracts with health plans. Even if a health plan has paid the provider less than the reasonable and customary value for services rendered, the health plan remains financially responsible for appropriate reimbursement, not the enrollee. In addition to these dispute resolution processes, the Second District Court of Appeal confirmed in *Bell v. Blue Cross* (2005) 131 Cal. App. 4th 211 that emergency providers have the common law right to sue health plans for restitution when they believe they have not been adequately reimbursed for their services.

Nevertheless, providers of emergency and other medically necessary services, who have not contracted with a health plan generally ignore the processes available to them for submitting claims to, and obtaining payment from, health plans, and to resolve disputes regarding claims payment and claims settlement. Instead, they continue to seek reimbursement of their claims directly from health plan enrollees. As a result, innocent enrollees are routinely leveraged as bargaining chips in an unfair provider billing pattern, which often leads to detrimental health care decisions by the enrollee and aggressive collection activities by the provider, with long-term harm to the enrollee’s health, safety, and financial stability.

The system weaknesses that generate the need for providers lacking written contracts with health plans to balance bill enrollees include the lack of an independent, fast, fair and cost-effective mechanism for resolving claims payment disputes between such providers and health plans. Providers currently have well established systems in place for billing patients to whom they have provided services. When a health plan pays a provider an amount that is less than the provider considers fair and reasonable, the provider may pursue additional

reimbursement by suing the health plan in civil court. However, the cost of such a lawsuit greatly exceeds the cost of balance billing the enrollee. Therefore, to address, in a meaningful manner, the problem of health care providers balance billing enrollees, it is necessary for the Department to develop and implement a mechanism by which providers lacking written plan contracts can obtain a fast, fair and cost-effective alternative to traditional high-cost civil remedies and to balance billing enrollees. The proposed revision to existing section 1300.71.38 will provide this fast, fair and cost-effective dispute resolution process for such providers.

In addition, the criteria and factors set forth in section 1300.71 of title 28, to be applied in determining reasonable and customary value of health care services rendered, have been criticized as inadequate for their intended purpose, and as resulting in confused and inconsistent application, and affected stakeholders have urged further clarification.

Existing Law and Authority

- Health plans are obligated to provide or arrange for the provision of all basic health care services, including emergency health care services,² to enrollees. (Health and Safety Code, section 1367(i).)
- Health care service plans, and their contracting medical providers, are required to provide 24-hour access to emergency care and must “reimburse providers for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee.” (Health and Safety Code, section 1371.4(a) and (b).)
- Health plans are required to encourage their enrollees to utilize the 911 emergency response system as appropriate and to go to the nearest emergency room if they believe they are having an emergency medical condition. (Health and Safety Code sections 1363.2, 1371.4 and 1371.5.)
- Hospitals and providers of emergency services are required to provide care necessary to stabilize an emergency medical condition without regard to the patient’s ability to pay. (Health & Safety Code, section 1317(d).)
- Third party payors, including health plans, that have a contractual obligation to pay for emergency services on behalf of their enrollees, are liable for the reasonable charges of non-contracted hospitals and treating emergency physicians, except for co-payments and other amounts that are the financial obligation of the enrollee. (Health and Safety Code section 1317.2a(d).)

² Section 1300.67(g) of title 28 of the California Code of Regulations further clarifies this statutory requirement.

- A health plan may only deny payment for emergency services and care if the health plan reasonably determines that emergency services and care were never performed. (Health and Safety Code, section 1371.4(c).)³
- The obligation of a health plan to pay claims submitted by emergency services providers, who lack written contracts with the plan, are not waived when the plan delegates the financial risk for such claims to its contracting medical groups. (Health & Safety Code Section 1371.35(f).)
- Health care service plans must ensure that a dispute resolution mechanism is accessible to providers lacking written plan contracts for the purpose of resolving billing and claims disputes. (Health and Safety Code, section 1367(h)(2).)
- The legislature expressly authorized the Department to adopt regulations that ensure that plans have adopted a dispute resolution mechanism pursuant to Section 1367(h). (Health and Safety Code Section 1367.38.)
- Contracting providers are prohibited from directly billing health plan enrollees for payment owed by the health plan for covered services, and emergency services are covered services. (Health and Safety Code, sections 1345(b)(6) and 1379; title 28, California Code of Regulations, section 1300.67(g).)
- With the exception of co-payments, co-insurance and deductibles approved by the Department, contracting providers are expressly required to look solely to the health plan for amounts due the provider by the health plan. (Health and Safety Code, section 1379(b).)

Existing law provides express authority for the proposed revisions to sections 1300.71 and 1300.71.38, and the proposed adoption of new section 1300.71.39. In 2000, through adoption of Assembly Bill 1455 (AB 1455; Scott; stats 2000, ch. 827) the California State Legislature enacted a comprehensive set of statutes intended to reform the claims submission and payment systems of California's health care industry. These amendments to the Knox-Keene Act expressly authorized the Department to adopt regulations to implement

³ Section 1371.4(c) also provides that a health plan may deny reimbursement to a provider for a medical screening examination in cases where those services are not covered services because the enrollee did not require emergency services and care, and the enrollee reasonably should have known that an emergency did not exist. However, this regulation addresses only those situations for which a health plan is obligated to provide coverage to enrollees and reimbursement to providers.

and clarify the new statutes. AB 1455 was enacted to refine the dispute resolution process between health plans and health care providers. The bill prohibited health care service plans from engaging in unfair payment patterns, and increased the penalties for doing so.

Recognizing that providers also engaged unfair billing practices, AB 1455 also empowered the Department to define "unfair billing patterns" utilized by health care providers. Because these unfair billing patterns impact the ability of plans to process claims within the statutorily mandated timeframes, and have extreme detrimental impact on enrollees, it is essential for the Department to address, in its continuing effort to improve the claims submission process for all parties, unfair billing patterns by health care providers who lack written plan contracts. The Independent Dispute Resolution Process proposed in this rulemaking action is intended to provide a fast, fair and cost-effective dispute resolution process for providers lacking written plan contracts by providing specific determinations for claims payment amounts, and to ensure that such providers are paid fairly and consistent with the health plan's obligations to pay for covered services pursuant to Sections 1371, 1371.35 and 1371.4.

The Department's initial efforts to promulgate regulations required by AB 1455 were met with aggressive litigation initiated by medical provider professional associations. The Department ultimately prevailed, and the Department's regulations implementing AB 1455 were successfully adopted in August 2003, establishing standards and requirements for plans to timely pay provider claims; a process for providers and plans to report to the Department regarding unfair claims payment and billing patterns and practices; and requirements for plan processes to resolve provider disputes.

Despite these regulatory measures, and as described above, providers of emergency and other medically necessary services, who lack written plan contracts, continue to directly seek payment of claims directly from enrollees. It is clear to the Department that additional rulemaking is necessary, and the Department has identified Sections 1371.38 and 1371.39 as crucial statutes requiring clarification to address these continuing serious problems.

In enacting AB 1455, including Sections 1371.38 and 1371.39, the Legislature found that:

- (a) Health care services must be available to citizens without unnecessary administrative procedures, interruptions, or delays.

(b) The billing by providers and the handling of claims by health care service plans are essential components of the health care delivery process and can be made more effective and efficient.

(c) The present system of claims submission by providers and the processing and payment of those claims by health care service plans are complex and are in need of reform in order to facilitate the prompt and efficient submission, processing, and payment of claims. Providers and health care service plans both recognize the problems in the current system and that there is an urgent need to resolve these matters.

(d) To ensure that health care service plans and providers do not engage in patterns of unacceptable practices, the Department of Managed Health Care should be authorized to assist in the development of a new and more efficient system of claims submission, processing, and payment.

(Stats. 2000, c. 827, § 1 (AB 1455).)

Section 1371.39(b)(1) provides in pertinent part:

Unfair billing pattern means engaging in a demonstrable and unjust pattern of unbundling of claims, up coding of claims, or other demonstrable and unjustified billing patterns, *as defined by the department.* (Emphasis added.)

Section 1371.38 directs the Department to:

. . . adopt regulations that ensure that plans have adopted a dispute resolution mechanism pursuant to subdivision (h) of section 1367. The regulations shall require that any dispute resolution mechanism of a plan is fair, fast and cost-effective for contracting and non-contracting providers and define the term “complete and accurate claim, including attachments and supplemental information or documentation.”

The Department has identified many situations in which a plan’s dispute resolution process for providers lacking written plan contracts may be fast, fair and cost-effective, yet still generate incentives for such providers to balance bill enrollees. The Department’s independent dispute resolution process to be established by this proposed revision to section 1300.71.38, is intended to provide providers lacking written plan contracts with an alternative to balance billing enrollees in these situations, through the Independent Provider Dispute Resolution Process to provide specific determinations for claims payment amounts, and to ensure that providers lacking written plan contracts are paid fairly, including in accordance with the health plan’s obligation to pay for covered services pursuant to Sections 1371, 1371.35 and 1371.4.

When a health plan adjudicates a health care provider’s claim to adjust for the provider’s inappropriate unbundling of claims or up-coding of services, unfair billing patterns as defined in Section 1371.39, the amount the plan pays to the provider is correspondingly reduced. This subjects the enrollee to the provider’s balance billing activities for the difference between the amount the provider billed and the amount reimbursed by the plan. With the proposed revision of section 1300.71.38, providers will have the opportunity to access an independent process, and receive a fast, fair and cost-effective adjudication on whether the plan’s reimbursement was fair and reasonable.

The broad authority granted the Department by Section 1371.39(b)(1) to identify demonstrable and unjustified billing patterns in addition to unbundling and up-coding reasonably must include the authority to address additional situations where the provider of health care services, though coding and bundling the claim appropriately, has billed an unreasonable and unjustifiable amount for the services rendered. In all of these situations, the provider has billed an amount in excess of what is reasonable and customary for the services rendered, and billing the enrollee for any excessive charges is unjust. Based on the express and broad language of Section 1371.39, the Department has clear authority to prohibit balance billing by providers of emergency and other medically necessary services, even though they may lack written contracts with health plans, by defining the practice as a demonstrable and unjust billing pattern. The Department has similarly interpreted and applied other sections of AB 1455 in defining and prohibiting unfair payment patterns by health plans. In 2003, the Department finalized and implemented its “Claims Settlement Practice Regulations” at title 28, California Code of Regulations, section 1300.71. This regulation defined twenty different payment activities by health plans that constituted “demonstrable and unfair payment patterns,” substantially expanding and specifying the few generalized categories of unfair payment activities enumerated in the legislation, such as reviewing and processing activities that result in delays, reducing the amount of payment, denying complete claims and failing to pay on the uncontested portion of a provider’s claim. (Health and Safety Code, section 1371.37.) In defining unfair billing practices by providers, it is critical for the Department to take a similarly balanced but broad approach and enumerate unfair billing practices as they are identified.

Significantly, balance billing not only impacts enrollees medically and financially, it undermines any meaningful billing dispute resolution process, including those processes required by statute. By pursuing collection directly against the enrollee, providers use unfair

and oppressive tactics, holding enrollees as virtual financial hostages, to pressure health plans to pay their full-billed charges, irrespective of whether their full-billed charges do, in fact, reflect the reasonable and customary value of the treatment provided. This practice allows the provider to thwart the statutorily mandated dispute resolution process that plans are required to maintain for non-contracted providers to resolve billing and claims disputes. (Health and Safety Code, section 1367(h); title 28, California Code of Regulations, section 1300.71.38.)

Based on the above factual and legal analysis, the Department has determined that:

- When health plans are obligated to pay for covered services provided by an emergency services provider, and the provider collects or attempts to collect from a health plan enrollee payment for amounts owed the provider by the health plan, the provider is engaging in an unfair billing pattern.
- Unfair billing patterns by providers of emergency and other medically necessary services must be eliminated.
- Sufficient administrative processes, within plans and the Department, including the additional independent, fast fair and cost-effective independent dispute resolution process proposed by this regulation, and legal processes through the courts, are readily available to non-contracting providers to provide fair and reasonable recourse to resolve claims payment disputes.

Accordingly, the Department has determined that the amendments to title 28 proposed in this rulemaking action are essential to enable the Department to execute its statutory mandate to protect California consumers and the stability of the health care delivery system.

AVAILABILITY OF MODIFIED TEXT

If the text of regulations proposed in this rulemaking action is modified after this notice is issued, unless the modification is non-substantive or solely grammatical in nature, the modified text will be made available to the public at least 15 days prior to the date the Department adopts the proposed regulations. A request for a copy of any modified regulation(s) should be addressed to Emilee Alvarez, Regulations Coordinator, at (916) 322-6727. The Director will accept comments on the modified regulation(s) via the Department's website, mail, fax, or email for 15 days after the date on which they are made available. The Director may thereafter adopt, amend, or repeal the foregoing proposal as set forth above without further notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named above.

ALTERNATIVES CONSIDERED

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to its attention, would be more effective in carrying out the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions. The Department invites the public to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

FISCAL IMPACT DETERMINATIONS

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: None
- Cost to local agencies and school districts required to be reimbursed under part 7 (commencing with Section 17500) of division 4 of the Government Code: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Direct or indirect costs or savings in federal funding to the state: None
- Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: None
- Costs to private persons or businesses directly affected: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effects on housing costs: None
- Adoption of these regulations will not:
 - (1) create or eliminate jobs within California;
 - (2) create new business or eliminate existing businesses within California; or
 - (3) affect the expansion of businesses currently doing business within California.

The Department has determined that the regulations do not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342(h)(2).

FINDING REGARDING REPORTING REQUIREMENT

Government Code section 11346.3(c) provides as follows:

No administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

This rulemaking action does not propose reporting requirements.

GENERAL PUBLIC INTEREST

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

NOTICE TO INTERESTED PARTIES

DTSC SEEKS JUDICIAL APPROVAL OF
SETTLEMENT AGREEMENT WITH ESTATE OF
REITMAN, EX REL. AUDREY BERKSON AND
AUDREY BERKSON, EXECUTRIX REGARDING
THE K&L PLATING SITE LOCATED AT 10301
PEARMAIN STREET, 10319 PEARMAIN
STREET, AND 10323 PEARMAIN STREET,
OAKLAND, CALIFORNIA

The Department of Toxic Substances Control ("DTSC") has agreed to enter into a Consent Decree with the Estate of Reitman, ex rel. Audrey Berkson and Audrey Berkson, executrix regarding the K&L Plating Site located at 10301 Pearmain Street, 10319 Pearmain Street, and 10323 Pearmain Street in Oakland, California ("Site").

Site History. Upon Abraham Isadore Reitman's death, the Estate of Reitman acquired the Site, comprised of three parcels of property. The Estate, through its executrix, Audrey Berkson, leased one parcel and sold the other two to the owner of K&L Plating Company ("K&L") a metal plating facility. From 1993 to 1997, metal plating operations were conducted on the Site. As a result of the metal plating operations, a significant amount of hazardous waste was generated, including zinc plating sludge; lead and chromium dust; copper, zinc, and nickel cyanide waste streams; waste containing sodium hydroxide, and spent hydrochloric, boric, and nitric acids. In 1997, after a court order required the facility to cease business operations and to conduct appropriate cleanup, a 1,500 gallon tank containing hydrochloric acid leaked inside the facility.

Enforcement Activities and Cleanup Work Completed by DTSC. In June 1997, DTSC filed a complaint with the Alameda Superior Court alleging a variety of hazardous waste violations at the Site. In response, the court ordered K&L to cease business operations and to properly dispose of all chemicals, materials, and other substances from the Site. In September 1997, DTSC formally determined that the Site posed an imminent and substantial endangerment to public health and the environment. Subsequently, a tank holding 1,500 gallons of hydrochloric acid leaked inside the K&L facility, requiring an emergency response by the United States Environmental Protection Agency. In December 1998, DTSC hired a contractor to remove the vats, tanks, drums, and miscellaneous debris remaining at the Site. DTSC developed a Removal Action Workplan ("RAW") for the Site, pursuant to which decontamination activities were conducted to address the residual contamination of structures, debris, and soil.

The Complaint. DTSC filed a complaint pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et. seq.* against the Estate of Reitman, ex rel. Audrey Berkson and Audrey Berkson, Executrix, California Department of Toxic Substances Control v. Estate of Reitman, ex rel. Audrey Berkson and Audrey Berkson, Executrix, U.S.D.C., Northern District of Cal., Case No. C02-02779. The complaint alleges that the defendants, as current or former owners or operators of the Site, are liable for DTSC's past and future response costs incurred to investigate and clean up releases of hazardous substances at the Site.

The Consent Decree. The Consent Decree requires that the Settling Defendants pay DTSC \$135,000, which represents a portion of the past costs DTSC has incurred at the Site. In return, the Settling Defendants receive contribution protection as provided by federal law from certain claims by other liable parties and a covenant not to sue from DTSC. The Settling Defendants do not admit liability. DTSC reserves a number of rights, including the right to seek recovery of its unpaid past and future costs from third parties.

Entry of the Consent Decree. DTSC intends to lodge the Consent Decree with the United States District Court for the Northern District of California. After a 30-day public comment period and after DTSC responds to any comments received, DTSC intends to move for judicial approval of the Consent Decree, pursuant to CERCLA section 113(f)(2), 42 U.S.C. § 9613(f)(2).

Obtaining Copies of the Consent Decree. Interested parties may obtain a copy of the Consent Decree by contacting Karen Toth at (510) 540-3834.

Comments on the Consent Decree. DTSC invites any interested persons to submit comments on the Con-

sent Decree. Comments must be received by DTSC on or before September 17, 2007. The comments should reference the Site name and be directed to:

Karen Toth
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, CA 94710

DTSC's responses to timely responses will be available for inspection at DTSC's office in Berkeley, California.

Further information regarding this matter may be obtained by contacting any of the following persons: Deputy Attorney General Deborah Slon at (916) 327-7851, or DTSC Staff Counsel Robert Elliott at (916) 327-6105.

DECISION NOT TO PROCEED

DEPARTMENT OF MANAGED HEALTH CARE

Notice of Decision Not To Proceed and
Intent to Refile

California Code of Regulations
Proposed amendment of Title 28 Section 1300.71

Notice is hereby given pursuant to Government Code section 11347 that the California Department of Managed Health Care (the "Department") has decided to withdraw the proposed revision of Title 28, California Code of Regulations Section 1300.71 regarding — Claims Settlement Practices; Reasonable and Customary Criteria, Notice File No. Z 06-0808-06 — published in the California Regulatory Notice Register on August 18, 2006.

The Department intends to initiate, with the required notice, a new proposal to adopt and amend regulations pertaining to the same subject matter.

DEPARTMENT OF MANAGED HEALTH CARE

Notice of Decision Not To Proceed; Intent to Refile

California Code of Regulations

Proposed adoption of Title 28 Section 1300.71.39 and

Proposed amendment of Title 28 Section 1300.71.38

Notice is hereby given pursuant to Government Code section 11347 that the California Department of Man-

aged Health Care (the "Department") has decided to withdraw the proposed addition of Title 28, California Code of Regulations Section 1300.71.39 and amendment of Title 28, California Code of Regulations Section 1300.71.38 regarding — Unfair Billing Patterns; Prohibition Against Billing Enrollees for Emergency Services; Independent Dispute Resolution Process, Notice File No. Z 06-0808-05 — published in the California Regulatory Notice Register on August 18, 2006.

The Department intends to initiate, with the required notice, a new proposal to adopt and amend regulations pertaining to the same subject matter.

RULEMAKING PETITION DECISIONS

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

August 6, 2007

Robert D. Peterson
Law Corporation
3300 Sunset Boulevard, Suite 110
Sunset Whitney Ranch
Rocklin, CA 95677

Re: Proposal for Regulatory Change

Dear Mr. Peterson:

The Occupational Safety and Health Appeals Board received your proposal for regulatory change on July 18, 2007. The Board has discussed your proposal and provides this response.

The Board recognizes that the disclosure of witness lists has been an issue of concern. Nonetheless, the Board believes that its existing rules of practice and procedure provide sufficient avenues to address this problem. California Code of Regulations, Title 8, section 372 and 372.6, respectively, provide the means by which to request such information and a remedy when a request is not fulfilled. And, where a party avails itself of the existing remedy by filing a motion to compel, a continuance of the hearing may be granted to allow for a resolution of the issue, if needed (section 371). In addition, an administrative law judge may impose sanctions where discovery abuses have occurred (section 372.7). This provision has been used on various occasions.

The existing regulatory framework affords both the ALJ and the parties flexibility to address each matter individually, which the Board believes has value. Moreover, if a party believes an ALJ has acted in excess of his or her powers, that the evidence does not support the

findings of fact, or that the findings of fact do not support the decision, the party may seek Board reconsideration after the ALJ's decision issues (Labor Code section 6617).

While the Board is not prepared to initiate a regulatory action at this time, the Board believes your proposal has merit and will continue to evaluate it. The Board may convene an advisory committee to discuss this issue in the future and will request your participation, should it decide to do so.

Thank you for bringing your concern to the Board's attention. Please let me know if you have any further questions or comments.

Sincerely,

/s/

J. Jeffrey Mojcher
Chief Counsel

**OAL REGULATORY
DETERMINATIONS**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS
(Summary Disposition)**

**(Pursuant to Government Code Section 11340.5
and
Title 1, section 270, of the
California Code of Regulations)**

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826
E-Mail: staff@oal.ca.gov

**SUSAN LAPSLEY
Director**

Date: August 3, 2007

To: Cesar Uribe

From: Chapter Two Compliance Unit

Subject: **2007 OAL DETERMINATION NO. 7 (S)
(CTU 2007-0604-01)**

(Issued pursuant to Gov. Code, sec. 11340.5;
Cal. Code Regs., tit. 1, sec. 270(f)(2)(B)).

Petition challenging as an underground regulation language in Department Operations Manual issued by the Department of Corrections and Rehabilitation section 54100.25, which states: "The appeal inquiry is confidential and shall not be provided to the inmate."

On June 4, 2007, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination whether the rule you challenge is an underground regulation. The rule you challenge as an alleged underground regulation is contained in section 54100.25 in the Department Operations Manual (DOM) issued by the Department of Corrections and Rehabilitation (CDCR) and provides: "The appeal inquiry is confidential and shall not be provided to the inmate."

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600, which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Your petition states that you asked that various personnel actions be taken against a staff member at Corcoran State Prison. The matter was investigated and you were given the disposition of the investigation, which you appealed and requested the material on which the investigation was based. This information, however, was held to be confidential pursuant to the language quoted above in section 54100.25 of the DOM.

In determining whether a challenged rule is a "regulation" that should be adopted pursuant to the APA, OAL looks to see whether the challenged rule is merely a restatement of existing law. A rule which is contained in a California statute does not meet the definition of a "regulation" in Government Code section 11342.600 and is, therefore, not an underground regulation.¹

DOM section 54100.25 is a restatement of Penal Code sections 832.5 and 832.7. Penal Code section 832.5 requires:

(a)(1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments

¹ Government Code section 11342.600 defines "regulation" to mean "every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure."

or agencies, and shall make a written description of the procedure available to the public.

(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.

...

The procedure for investigating complaints required by Penal Code section 832.5 is contained in DOM section 54100.25, and, pursuant to Penal Code section 832.5, must comply with Penal Code section 832.7 which states:

(a) **Peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential** and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

....

(e)(1) The department or agency shall provide written notification to the complaining party **of the disposition of the complaint** within 30 days of the disposition. (Emphasis added.)

The investigation procedure required by Penal Code section 832.5 is found in DOM section 54100.25, in which it is called an "appeal inquiry." The procedure is the internal investigation of allegations of custodial staff misconduct. It is conducted by CDCR staff, not a grand jury, a district attorney's office, or the Attorney General's office. The information discovered during the investigation of the alleged misconduct would be part of the staff member's personnel records.

The provision challenged in DOM section 54100.25 regarding the confidentiality of personnel records is a

restatement of the requirements of the Penal Code sections 832.5 and 832.7. DOM section 54100.25 does not further "implement, interpret, or make specific" these sections. Therefore, the challenged language is not an underground regulation. The facts presented in the petition demonstrate that the specific language is "contained in a California statute."² It does not meet the definition of a "regulation" as defined in Government Code section 11342.600, and is not required to be adopted as a regulation pursuant to the APA.

Date: August 3, 2007

/s/

Kathleen Eddy
Senior Counsel

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

/s/

Susan Lapsley
Director

² For this reason, pursuant to subdivision (f)(2)(B) of section 270, it is the proper subject of a summary disposition letter.

California Code of Regulations, Title 1, section 270, subdivision (f) provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review . . . demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be used to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. (Emphasis added.)

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Distributed Generated Certification Regulation

Air Resources Board proposes amendment to Title 17 regulations that implement distributed generation certification requirements for distributed generation equipment (DG Units) subject to ARB certification in Health & Safety Code section 41514.9. Amended provisions apply to DG Units manufactured for sale, lease, use, or operation in California and affect current emission standards for DG Units powered by fossil fuels, emission standards effective 2008 and 2013 for DG units powered by specified waste gas fuels, and certification, testing, recordkeeping, recertification, and fees for certification and recertification.

Title 17
California Code of Regulations
ADOPT: 94201.1
AMEND: 94201, 94202, 94203, 94204, 94207, 94208, 94209, 94210, 94211, 94212
Filed 08/08/07
Effective 09/07/07
Agency Contact: Alexa Malik (916) 322-4011

BUREAU OF AUTOMOTIVE REPAIR

Low-Pressure Fuel Evaporative System Test/Directed Vehicle Testing

This regulatory submission changes two elements of the Smog Check Program. 1) It requires a Low-Pressure Fuel Evaporative System test (LPFET) for identified vehicles, and 2) it provides for the initial testing by Gold Shield stations of directed vehicles.

Title 16
California Code of Regulations
AMEND: 3340.16, 3340.42, 3392.2
Filed 08/01/07
Effective 08/01/07
Agency Contact: James Allen (916) 255-4300

CALIFORNIA HIGHWAY PATROL

Side-Mounted and Supplemental Signal Lamps

This regulatory action revises photometric requirements for side-mounted and supplemental signal lamps on vehicles to add references to recent versions of SAE standards.

Title 13
California Code of Regulations
AMEND: 794
Filed 08/07/07
Effective 09/06/07
Agency Contact: Gary Ritz (916) 445-1865

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

National Incident Management Incident Training

Homeland Security Presidential Security Directive-5 (Managing Domestic Incidents) and Government Code section 8607 require specified training for all first responders and trainers in the use of the National Incident Management System (NIMS), the Standardized Emergency Management System (SEMS), and the Incident Command System (ICS). This regulatory action creates an eight-hour Basic Course for Response Personnel that will be the standardized course for peace officers and first responders of any rank who may be tasked to respond to an emergency incident and a 24-hour Train-the-Trainer Course for Response Personnel that instructors will be required to complete prior to delivery or presentation of the eight-hour Basic Response course. The regulations identify the minimum curriculum content that must be included in both the response and instructor courses.

Title 11
California Code of Regulations
AMEND: 1070, 1081, 1082
Filed 08/01/07
Effective 08/31/07
Agency Contact: Patricia Cassidy (916) 227-4847

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Incident Command System Training for Response Personnel and Training Instructors

Homeland Security Presidential Security Directive-5 (Managing Domestic Incidents) and Government Code section 8607 require specified training for all first responders and trainers in the use of the National Incident Management System (NIMS), the Standardized Emergency Management System (SEMS), and the Incident Command System (ICS). This regulatory action creates a 16-hour ICS 300 & 400 Course for Response Personnel that will be the standardized course for peace officers and first responders at rank of first-

line supervisor through command staff who may be tasked to respond to an emergency incident and a 24-hour ICS 300 & 400 Train-the-Trainer Course for Response Personnel that instructors must complete prior to delivery or presentation of the 16-hour response course. The regulations identify the minimum curriculum content that must be included in both the response and instructor courses.

Title 11
California Code of Regulations
AMEND: 1070, 1081, 1082
Filed 08/01/07
Effective 08/31/07
Agency Contact: Patricia Cassidy (916) 227-4847

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Training and Testing Specifications for Peace Officer Basic Courses

This regulatory action amends provisions of the "Training and Testing Specifications for Peace Officer Basic Courses" publication that is incorporated by reference into POST regulations. The amendments delete required tests for Learning Domain #17 (Presentation of Evidence), move learning needs dealing with weapons of mass destruction (WMD) from Learning Domain #41 (Hazardous Materials Awareness) to Learning Domain #43 (Emergency Management), and amends and expands LD #43 to incorporate training and testing for WMD and other emergency management amendments.

Title 11
California Code of Regulations
AMEND: 1005, 1007, 1008
Filed 08/08/07
Effective 08/08/07
Agency Contact: Patricia Cassidy (916) 227-4847

DEPARTMENT OF SOCIAL SERVICES Community Care Licensing (CCL) Crisis Nurseries

This regulatory action is an emergency readoption of regulations that deal with Community Care Licensing Facilities Crisis Nurseries. These emergency regulations are exempt from OAL review and approval and are deemed emergencies pursuant to Chapter 664, section 11 of the Statutes of 2004 (SB 855). (Prior OAL files 06-1019-01EP, 07-0213-05EE, 07-0625-02C; DSS File Number ORD #0905-15.)

Title 22, MPP
California Code of Regulations
ADOPT: 86500, 86501, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529,

86531, 86531.1, 86531.2, 86534, 86535, 86536, 86540, 86542, 86544, 86545, 86546, 86552, 86553, 86554, 86555, 86555.1, 86558, 86559, 86561, 86562, 86563, 86564, 86565, 86565.2, 86565.5, 86566, 86568.1, 86568.2, 86568.4, 86570, 86572, 86572.1, 86572.2, 86574, 86575, 86576, 86577, 86578, 86578.1, 86579, 86580, 86586, 86587, 86587.1, 86587.2, 86588 AMEND: 11-400c, 11-402, 45-101(c), 45-202.5, 45-203.4, 45-301.1
Filed 08/07/07
Effective 08/07/07
Agency Contact: Sandra Ortega (916) 657-2586

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Labor and Workforce Development Agency Conflict of Interest Code

This is a Conflict of Interest Code filing that has been approved by the Fair Political Practices Commission and is being submitted to OAL for filing with the Secretary of State and printing in the California Code of Regulations.

Title 2
California Code of Regulations
AMEND: 58800
Filed 08/03/07
Effective 09/02/07
Agency Contact: Deanna Fong (916) 327-9069

MEDICAL BOARD OF CALIFORNIA Medical Services Performable

This Section 100 filing is submitted by the Medical Board regarding the Medical Services Performable by Physician Assistants pursuant to statutory changes in Business & Professions Code section 3502.1.

Title 16
California Code of Regulations
AMEND: 1399.541
Filed 08/03/07
Effective 08/03/07
Agency Contact: Kevin A. Schunke (916) 263-2368

OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

Hospital Fair Pricing Policies Reporting

In this regulatory action, the Office of Statewide Health Planning and Development adopts regulations implementing the "Hospital Fair Pricing Policies Reporting" required pursuant to Health and Safety Code section 127435 as contained in Statutes of 2006, Chapter 755 (AB 774). This legislation requires hospitals to report their discount payment and charity care policies and related information.

Title 22
California Code of Regulations
ADOPT: 96040, 96041, 96042, 96043, 96044,
96045, 96046, 96050 AMEND: 96000
Filed 08/08/07
Effective 09/07/07
Agency Contact: Kenrick J. Kwong (916) 323-7681

STATE ALLOCATION BOARD

Surplus School Property; Use of Proceeds—SB 1415

This regulatory action creates two definitions, as authorized by Education Code 17462(c): “one-time expenditures” and “on-going expenditures” of school districts when they have sold surplus property.

Title 2
California Code of Regulations
ADOPT: 1700
Filed 08/02/07
Effective 08/02/07
Agency Contact: Robert Young (916) 445-0083

STATE WATER RESOURCES CONTROL BOARD

TMDL for Trash in the New River at the International Boundary

On June 21, 2006, the Colorado River Basin Regional Water Quality Control Board (Colorado River Basin Water Board) adopted Resolution R7-2006-0047 amending the Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) by establishing the Total Maximum Daily Load (TMDL) for trash in the New River. On April 18, 2007, the State Water Resources Control Board approved this amendment under Resolution No. 2007-0017.

Title 23
California Code of Regulations
ADOPT: 3967
Filed 08/02/07
Agency Contact: Stephanie Rose (916) 341-5574

VETERINARY MEDICAL BOARD

Controlled Substances

The Veterinary Medical Board is amending their regulations to allow Registered Veterinary Technicians (RVT) and unregistered veterinary technicians (UVT) to administer controlled substances. These amendments allow for RVT's to administer controlled substances under indirect veterinarian supervision and UVT's to do so under direct supervision.

Title 16
California Code of Regulations
AMEND: 2036, 2036.5
Filed 08/03/07
Effective 09/02/07
Agency Contact: Linda Kassis (916) 263-2622

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN MARCH 07, 2007 TO AUGUST 08, 2007

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

07/09/07 AMEND: 270
06/28/07 AMEND: 2616

Title 2

08/03/07 AMEND: 58800
08/02/07 ADOPT: 1700
07/18/07 ADOPT: 7288.0, 7288.3 AMEND: 7288.0, 7288.1, 7288.2
07/18/07 AMEND: 1859.2, 1859.51, 1859.61, 1859.81, 1859.202, 1866
07/18/07 AMEND: 18361.2, 18361.4
07/17/07 AMEND: 1859.2
07/02/07 ADOPT: 1859.302, 1859.324.1, 1859.330 AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329
07/02/07 ADOPT: 18531.62 AMEND: 18544, 18545
06/20/07 ADOPT: 1859.106.1 AMEND: 1859.106
06/15/07 AMEND: div. 8, ch. 111, sec. 59560
06/13/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80 REPEAL: 20108.37
05/23/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40,

| | | | |
|----------------|---|----------------|---|
| | 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80 | | 902.10, 902.11, 902.12, 902.13, 902.14, 903, 903.1, 903.2, 903.3, 903.4, 903.5, 903.6, 903.7, 903.8, 903.9, 903.10, 903.11, 903.12 |
| 05/21/07 | AMEND: 18402 | 05/07/07 | AMEND: 3433 |
| 05/17/07 | AMEND: 52900 | 05/07/07 | AMEND: 6860 |
| 05/17/07 | ADOPT: 1859.70.4, 1859.71.6, 1859.77.4, 1859.162.1, 1859.162.2, 1859.162.3, 1859.163.4, 1859.163.5, 1859.163.6, 1859.163.7, 1859.169.1 AMEND: 1859.2, 1859.51, 1859.60, 1859.61, 1859.70.3, 1859.71, 1859.78.9, 1859.83, 1859.93.2, 1859.160, 1859.161, 1859.162, 1859.163.1, 1859.163.2, 1859.163.3, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.167, 1859.167.1, 1866.4, 1866.13 REPEAL: 1859.162.1 | 05/03/07 | ADOPT: 3035 REPEAL: 3035, 3035.1, 3035.2, 3035.3, 3035.4, 3035.5, 3035.6, 3035.7, 3035.8, 3035.9 |
| 05/14/07 | AMEND: 599.664 | 04/25/07 | AMEND: 3433(b) |
| 05/08/07 | AMEND: div. 8, ch. 48, sec. 53700 | 04/23/07 | AMEND: 3591.20 |
| 05/08/07 | ADOPT: 1185.2, 1185.3, 1185.4 AMEND: 1185, 1185.01 (renumbered to 1185.1), 1185.02 (renumbered to 1185.5), 1185.03 (renumbered to 1185.6), 1185.1 (renumbered to 1185.7) | 04/20/07 | ADOPT: 3434 |
| 04/30/07 | AMEND: 1859.124.1 | 04/20/07 | AMEND: 3591.20(a) |
| 04/25/07 | AMEND: 1859.83, 1859.202, 1866 | 04/03/07 | AMEND: 3591.20(a), 3591.20(b) |
| 04/16/07 | AMEND: 18401 | 04/02/07 | AMEND: 752, 796.6, 1301 |
| 04/04/07 | AMEND: 28010 REPEAL: 36000 | 03/28/07 | AMEND: 3591.2(a) |
| 03/27/07 | AMEND: 59560 | 03/27/07 | ADOPT: 1446.9, 1454.16 |
| 03/20/07 | ADOPT: 18746.3 | 03/21/07 | ADOPT: 3591.20 |
| 03/15/07 | AMEND: div. 8, ch. 102, section 59100 | 03/15/07 | ADOPT: 1371, 1371.1, 1371.2 |
| 03/14/07 | AMEND: div. 8, ch. 73, section 56200 | 03/07/07 | AMEND: 3423(b) |
| Title 3 | | Title 4 | |
| 07/24/07 | AMEND: 3591.6(a)(1) | 05/30/07 | AMEND: 1481 |
| 07/23/07 | AMEND: 3589(a) | 05/08/07 | AMEND: 1433 |
| 07/20/07 | AMEND: 3591.6(a)(1) | 05/07/07 | AMEND: 1606 |
| 07/20/07 | AMEND: 3423(b) | 04/24/07 | ADOPT: 9071, 9072, 9073, 9074, 9075 |
| 07/18/07 | AMEND: 3434(b) | 04/19/07 | AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10188 |
| 07/13/07 | AMEND: 3591.20(a) | 03/13/07 | ADOPT: 7075, 7076, 7077, 7078, 7079, 7080, 7081, 7082, 7083, 7084, 7085, 7086, 7087, 7088, 7089, 7090, 7091, 7092, 7093, 7094, 7095, 7096, 7097, 7098, 7099 REPEAL: 7000, 7001, 7002, 7003, 7004, 7005, 7006, 7007, 7008, 7009, 7010, 7011, 7012, 7013, 7014, 7015, 7016, 7017 |
| 07/09/07 | AMEND: 3433(b) | Title 5 | |
| 07/06/07 | AMEND: 3589(a) | 07/31/07 | ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, |
| 07/06/07 | AMEND: 3591.2(a) | 06/27/07 | AMEND: 50500 |
| 06/21/07 | AMEND: 3434(b), 3434(c) | 06/05/07 | AMEND: 19802 |
| 06/13/07 | ADOPT: 6739 AMEND: 6000, 6720, 6738, 6793 | 06/04/07 | ADOPT: 11996, 11996.1, 11996.2, 11996.3, 11996.4, 11996.5, 11996.6, 11996.7, 11996.8, 11996.9, 11996.10, 11996.11 |
| 06/07/07 | AMEND: 3434(b) | 06/01/07 | REPEAL: 41916 |
| 06/06/07 | AMEND: 3434(b) | 05/30/07 | ADOPT: 30920, 30921, 30922, 30923, 30924, 30925, 30926, 30927 |
| 06/05/07 | AMEND: 3591.20(a) | 05/18/07 | ADOPT: 19828.2, 19829.5, 19830.1, 19837.1, 19838, 19846 AMEND: 19816, 19816.1, 19828.1, 19830, 19837, 19854 |
| 05/31/07 | ADOPT: 900, 900.1, 900.2, 901.5, 901.8, 901.9, 901.10, 901.11, 902, 902.1, 902.3, 902.4, 902.5, 902.6, 902.7, 902.8, 902.9, | 05/11/07 | AMEND: 30023(c) |

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| 05/07/07 | ADOPT: 30910, 30911, 30912, 30913, 30914, 30915, 30916, 30917 | 3200.220, 3200.230, 3200.240, 3200.250, 3200.260, 3200.270, |
| 04/27/07 | ADOPT: Art. 2.2 (subch.1, ch. 6), 55151, 55151.5, 55151.7, 58707, 58785, AMEND: 55002, 55150, 58160, 58704, 58770, 58771, 58773, 58774, 58776, 58777, 58779 REPEAL: 58706, 58775 | 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL: |
| 04/23/07 | ADOPT: 30710, 30711, 30712, 30713, 30714, 30715, 30716, 30717, 30718 | 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415 |
| 04/17/07 | AMEND: 18013, 18054, 18068 | |
| 04/09/07 | ADOPT: 11962, 11962.1 | |
| 04/06/07 | AMEND: 41301 | |
| 03/29/07 | AMEND: 42356 | |
| 03/19/07 | AMEND: 41301 | |
| 03/19/07 | AMEND: 41550 | |

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07/23/07 ADOPT: 32993 AMEND: 32990, 32992,
32994, 32995, 32996, 32997 REPEAL:
32991, 32993

06/19/07 AMEND: 212.01

06/15/07 ADOPT: 9792.20, 9792.21, 9792.22,
9792.23

06/07/07 ADOPT: 9792.11, 9792.12, 9792.13,
9792.14, 9792.15

06/01/07 AMEND: 4543

05/23/07 AMEND: 9767.4, 9767.8, 9768.10,
9788.11

05/23/07 AMEND: 5001

05/21/07 AMEND: 9768.5, 9788.31

05/16/07 AMEND: 8397.16

04/27/07 AMEND: 1801, 8416

04/26/07 ADOPT: 10225, 10225.1, 10225.2

04/24/07 AMEND: 5004, 5047, 8379

04/20/07 AMEND: 1620, 1626, 1629

04/20/07 AMEND: 5148(c)

04/18/07 AMEND: 20299, 20363, 20407

03/29/07 AMEND: 3664(a)

03/27/07 AMEND: 3291, 3292, 3295, 3296

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06/12/07 AMEND: 10501, 10508, 10511, 10515,
10518, 10522, 10524, 10527, 10529,
10532, 10533, 10545, 10547, 10550,
10561, 10568, 1606, 10608, 10609,
10613, 10615, 10620, 10626, 10630

05/24/07 AMEND: 13035

05/01/07 ADOPT: 3100, 3200.010, 3200.020,
3200.030, 3200.040, 3200.050,
3200.060, 3200.070, 3200.080,
3200.090, 3200.100, 3200.110,
3200.120, 3200.130, 3200.140,
3200.150, 3200.160, 3200.170,
3200.180, 3200.190, 3200.210,

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07/31/07 AMEND: 2699.205, 2699.6600,
2699.6607, 2699.6608, 2699.6613,
2699.6629, 2699.6813

07/26/07 ADOPT: 2355.1, 2355.2, 2355.3, 2355.4,
2355.5, 2355.6, 2355.7, 2355.8, 2356.1,
2356.2, 2356.3, 2356.4, 2356.5, 2356.6,
2356.7, 2356.8, 2356.9, 2357.1, 2357.2,
2357.3, 2357.4, 2357.5, 2357.6, 2357.7,
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2357.12, 2357.13, 2357.14, 2357.15,
2357.16, 2357.17, 2357.18, 2357.19,
2358.1, 2358.2, 2358.3, 2358.4, 2358.5,
2358.6, 2358.7, 2358.8, 2358.9, 2359.1,
2359.2, 2359.3, 2359.4, 2359.5, 2359.6,
2359.7 Repeal: 2555, 2555.1, 2556,
2556.1, 2556.2

07/09/07 AMEND: 260.140.8, 260.140.41,
260.140.42, 260.140.45, 260.140.46

06/28/07 AMEND: 2498.6

06/28/07 AMEND: 2498.6

06/28/07 AMEND: 2498.5

06/28/07 AMEND: 2498.4.9

06/28/07 AMEND: 2498.4.9

06/28/07 AMEND: 2498.5

06/28/07 AMEND: 2498.6

06/28/07 AMEND: 2498.6

06/28/07 AMEND: 2498.6

06/28/07 AMEND: 2498.4.9

06/28/07 AMEND: 2498.4.9

05/01/07 AMEND: 2716.1, 2790.1.5, 2810.5
REPEAL: 2716, 2790.1, 2810

04/26/07 ADOPT: 5357, 5357.1, 5358, 5358.1
AMEND: 5350, 5352

04/25/07 AMEND: 250.30

04/25/07 AMEND: 2697.6, 2697.61

04/24/07 AMEND: 2498.6
 04/16/07 AMEND: 2318.6, 2353.1, 2354
 03/23/07 AMEND: 2695.8(b)(2)
 03/09/07 AMEND: 2498.6

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08/08/07 AMEND: 1005, 1007, 1008
 08/01/07 AMEND: 1070, 1081, 1082
 08/01/07 AMEND: 1070, 1081, 1082
 07/31/07 ADOPT: 999.100, 999.101, 999.102,
 999.108, 999.114, 999.115, 999.121,
 999.122, 999.128, 999.129, 999.130,
 999.131, 999.132, 999.133, 999.134,
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 999.151, 999.152, 999.153, 999.154,
 999.165, 999.166, 999.167, 999.168,
 999.169, 999.170, 999.171, 999.172,
 999.173, 999.174, 999.175, 999.176,
 999.177, 999.178, 999.179, 999.190,
 999.191, 999.192, 999.193, 999.194,
 999.195, 999.196, 999.197, 999.203,
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 999.208, 999.209, 999.210, 999.211,
 999.217, 999.218, 999.219, 999.220,
 999.221, 999.222, 999.223
 06/08/07 ADOPT: 9020 REPEAL: 1019
 06/08/07 AMEND: 9072
 06/06/07 AMEND: 1010 (renumber to 9030 to new
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 06/04/07 AMEND: 1081
 06/01/07 ADOPT: 999.6, 999.7, 999.8
 06/01/07 AMEND: 1005, 1007, 1008
 04/19/07 ADOPT: 64.4
 04/19/07 ADOPT: 64.5
 04/19/07 ADOPT: 64.6
 04/18/07 ADOPT: 64.3

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08/07/07 AMEND: 794
 07/25/07 AMEND: 156.00
 07/16/07 AMEND: 2111, 2112, 2411, 2412, 2413,
 2415
 07/13/07 AMEND: 330.08
 07/13/07 AMEND: 2601, 2602, 2603, 2604, 2605,
 2606, 2607, 2608, 2609, 2610 REPEAL:
 2611
 07/11/07 ADOPT: 150.08
 07/09/07 AMEND: 225.18, 225.39, 225.45,
 225.54 and 225.63

06/29/07 AMEND: 181.00
 05/23/07 AMEND: 2180.1, 2181, 2184, 2185,
 2186, 2192, 2194 REPEAL: 2011
 05/01/07 ADOPT: 1300, 1400, 1401, 1402, 1403,
 1404, 1405 REPEAL: 1300, 1301, 1302,
 1303, 1304, 1304.1, 1305, 1310, 1311,
 1312, 1313, 1314, 1315, 1320, 1321,
 1322, 1323, 1324, 1325, 1330, 1331,
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 1338, 1339, 1339.1, 1339.2, 1339.3,
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 1353, 1354, 1355, 1356, 1360, 1361,
 1362, 1363, 1364, 1365, 1366, 1370,
 1371, 1372, 1373, 1374, 1375, 1400,
 1401, 1402, 1403, 1404, 1405, 1406,
 1410, 1411, 1412, 1413, 1414, 1415,
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 04/26/07 AMEND: 2451, 2452, 2453, 2455, 2456,
 2458, 2459, 2460, 2461, 2462
 04/26/07 AMEND: 2450, 2451, 2452, 2453, 2454,
 2455, 2456, 2457, 2458, 2459, 2460,
 2461, 2462, 2463, 2464, 2465
 04/12/07 ADOPT: 2775, 2775.1, 2775.2, 2780,
 2781, 2782, 2783, 2784, 2785, 2786,
 2787, 2788, 2789 AMEND: 2430, 2431,
 2433, 2434, 2438
 03/26/07 ADOPT: 182.00, 182.01, 182.02, Form
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 REG 256 (REV. 9/2005)

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06/15/07 AMEND: Title 13, 1969, Title 17,
 60060.2, 60060.11, 60060.15, 60060.16,
 60060.17, 60060.18, 60060.22,
 60060.29, 60060.32, 60060.33, 60060.34

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07/30/07 ADOPT: 17987, 17987.1, 17987.2,
 17987.3, 17987.4, 17987.5,
 07/27/07 ADOPT: 15155, 15190.5, 15191, 15192,
 15193, 15194, 15195, 15196, AMEND:
 15053, 15061, 15062, 15072, 15073,
 15074, 15082, 15087, 15105, 15179,
 15180, 15186 REPEAL: 15083.5
 07/19/07 AMEND: 4970.50
 07/17/07 AMEND: 2305, 2310, 2320
 07/10/07 AMEND: 4970.50, 4970.53, 4970.55,
 4970.62, 4970.63, 4970.64
 06/21/07 ADOPT: 2850 AMEND: 2090, 2425,
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 06/21/07 AMEND: 7.50(b)(91.1)
 06/20/07 AMEND: 3696.5

06/18/07 AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867
 06/11/07 ADOPT: 721
 06/08/07 ADOPT: 2880
 05/29/07 AMEND: 360, 361, 362, 363, 364, 702, 708
 05/10/07 AMEND: 27.80
 05/10/07 AMEND: 5.51, 7.50(b) (53.8)
 05/07/07 ADOPT: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71, 4970.72 REPEAL: 4970.00, 4970.01, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21, 4970.22, 4970.23, 4970.24, 4970.25, 4970.26, 4970.27, 4970.28, 4970.29, 4970.30, 4970.31, 4970.32
 05/03/07 ADOPT: 125.1 AMEND: 125
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 04/13/07 ADOPT: 18751.2.1, Form CIWMB 303a, Form CIWMB 303b AMEND: 18751.2 REPEAL: Form CIWMB 303
 04/02/07 AMEND: 679
 03/27/07 AMEND: 11945
 03/27/07 AMEND: 11900
 03/26/07 AMEND: 2305, 2310, 2320
 03/21/07 AMEND: 7.50
 03/20/07 AMEND: 11945
 03/20/07 AMEND: 790, 815.01, 815.02, 815.03, 815.04, 815.05, 815.06, 815.07, 815.08, 815.09, 816.01, 816.02, 816.03, 816.04, 816.05, 816.06, 817.02, 817.03, 818.01, 818.02, 818.03, 819.01, 819.02, 819.03, 819.04, 819.06, 819.07, 820.01, 825.03, 825.05, 825.07, 826.01, 826.02, 826.03, 826.04, 826.05, 826.06, 827.01, 827.02

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03/14/07 ADOPT: Title 27, 21660.1, 21660.2, 21660.3, 21660.4, 21666 AMEND: Title 14, 17388.3, 17388.4, 17388.5, 18077, 18083, 18104.1, 18104.2, 18104.7, 18105.1, 18105.2, 18105.9, Title 27, 21563, 21570, 21580, 21620, 21650, 21660, 21663, 21665, 21675, 21685 REPEAL: Title 14, 17383.10, 17388.6

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06/26/07 ADOPT: 4034.0, 4034.1, 4034.2, 4034.3, 4034.4, 4036 REPEAL: 4040

06/18/07 ADOPT: 1363 AMEND: 1300, 1302, 1303, 1304, 1311, 1312, 1314, 1320, 1321, 1323, 1324, 1325, 1340, 1341, 1342, 1343, 1350, 1353, 1357, 1360, 1361, 1370, 1374, 1375, 1377, 1378, 1390, 1407, 1437, 1438, 1439, 1450, 1461, 1462, 1480, 1501
 06/05/07 ADOPT: 3999.5
 05/15/07 ADOPT: 3999.4
 05/02/07 AMEND: 3276(e)
 04/19/07 AMEND: 3084.1, 3391
 04/18/07 ADOPT: 3352.2 AMEND: 3350.1, 3352.1, 3354, 3355.1, 3358
 04/18/07 AMEND: 2600.1

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 08/03/07 AMEND: 2036, 2036.5
 08/01/07 AMEND: 3340.16, 3340.42, 3392.2
 07/16/07 AMEND: 2670
 07/12/07 AMEND: 160
 07/11/07 AMEND: 68.3, 68.4, 88, 88.1, 88.2, 89, 99
 07/10/07 AMEND: 4114
 07/03/07 ADOPT: 4152.1
 06/22/07 AMEND: 1399.170.11
 06/20/07 AMEND: 3303.1
 06/15/07 AMEND: 2070, 2071
 06/12/07 AMEND: 1325, 1339, 1344, 1350.3, 1355.35
 05/30/07 ADOPT: 980.2, 980.3 AMEND: 980.1
 05/23/07 AMEND: 1706.2
 05/04/07 ADOPT: 2516.5, 2518.7, 2576.7 AMEND: 2502, 2516, 2526, 2526.1, 2530, 2533, 2540.3, 2540.4, 2542.2, 2542.3, 2542.4, 2542.5, 2544, 2544.1, 2544.2, 2544.3, 2544.4, 2547.2, 2547.3, 2547.4, 2547.5 2562, 2575, 2581, 2581.1, 2585, 2587, 2592.3, 2592.4, 2593, 2593, 2593.1, 2593.2, 2593.3, 2593.4
 04/27/07 AMEND: 1387, 1390.3
 04/20/07 AMEND: 2032.4, 2034, 2036, 2036.5
 04/09/07 REPEAL: 356.1
 04/09/07 AMEND: 1388.6, 1381.5
 04/09/07 AMEND: 640, 643
 04/03/07 AMEND: 4202
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 03/26/07 AMEND: 919
 03/26/07 ADOPT: 1784
 03/23/07 AMEND: 1399.151.1, 1399.160.2, 1399.160.3, 1399.160.4, 1399.160.5,

| | | | |
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| | 1399.160.6, 1399.160.7, 1399.160.9, 1399.160.10 | | 1232, 1233, 1234, 1235, 1236, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1341, 1342, 1343, 1344, 1345, 1347, 1348, 1350, 1351, 2501, 2502, 2503, 2504, 2505, 2506, 2507 REPEAL: 1340 |
| 03/20/07 | AMEND: 1803 | | |
| 03/19/07 | REPEAL: 942, 943, 944, 945, 946, 947, 948, 949, 950.6, 950.7, 966 | | |
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| 08/08/07 | ADOPT: 94201.1 AMEND: 94201, 94202, 94203, 94204, 94207, 94208, 94209, 94210, 94211, 94212 | 06/11/07 | AMEND: 4.1 |
| 07/30/07 | AMEND: 2500, 2502, 2505 | 03/28/07 | AMEND: 1002, 1201, 1207, 1208, 1209, 1209.5, 1216, 1217, 1702, 1708, 1709.7, 1710, 1716, 1717, 1720, 1720.3, 1720.4, 1721, 1744, 1747, 2012-App B REPEAL: 1219, 1720.5, 1720.6 |
| 07/24/07 | ADOPT: 100085 | | |
| 07/11/07 | AMEND: 30315.33, 30316.60, 30317, 30319.20 | Title 22 | |
| 06/27/07 | AMEND: 54342 | 08/08/07 | ADOPT: 96040, 96041, 96042, 96043, 96044, 96045, 96046, 96050 AMEND: 96000 |
| 06/26/07 | AMEND: 60201, 60202, 60205, 60210 | 07/18/07 | ADOPT: 69109 AMEND: 69100, 69101, 69102, 69103, 69104, 69105, 69106, 69107, 69108 |
| 06/14/07 | ADOPT: 100300, 100301, 100302, 100303, 100304, 100305, 100306, 100308, 100309, 100310 | 07/18/07 | AMEND: 4401.5 REPEAL: 4401, 4402, 4432, 4441 |
| 05/04/07 | ADOPT: 96100 | 07/16/07 | ADOPT: 50966 AMEND: 50961, 50962 |
| 04/26/07 | ADOPT: 93116.3.1 AMEND: 93115, 93116.2, 93116.3 | 06/18/07 | ADOPT: 67386.5, 67386.6, 67386.7, 67386.8, 67386.9, 67386.10, 67386.11, 67386.12 AMEND: 66261.9.5, Appendix XII, 67386.1, 67386.2, 67386.3, 67386.4 |
| 04/18/07 | ADOPT: 2641.56, 2641.57 AMEND: 2641.30, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 REPEAL: 2641.75, 2641.77 | 04/23/07 | ADOPT: 66261.9.5, 67386.1, 67386.2, 67386.3, 67386.4 |
| Title 18 | | | |
| 07/30/07 | AMEND: 1591.4 | 04/20/07 | ADOPT: 2708(d)-1(a), 2708(d)-1(b), 2708(d)-1(c) |
| 07/30/07 | AMEND: 1591 | 04/19/07 | AMEND: 5065, 5101, 5108 |
| 07/30/07 | AMEND: 1591.2 | 04/17/07 | ADOPT: 40622, 40635.1, 40635.2, 40648, 40660, 40661, 40733, 40752 AMEND: 40603, 40635, 40743, 40747 REPEAL: 40753 |
| 07/26/07 | AMEND: 1586 | 04/13/07 | ADOPT: 66267.10 AMEND: 66264.1, 66265.1, 66270.1 |
| 07/16/07 | AMEND: 1603 | 03/20/07 | AMEND: 926-3, 926-4, 926-5 |
| 07/10/07 | AMEND: 1660 | 03/20/07 | ADOPT: 69106 AMEND: 69100, 69101, 69102, 69103, 69104, 69106 (renumber to 69107), 69107 (renumber to 69108) |
| 07/02/07 | AMEND: 17952 | 03/12/07 | AMEND: 4400(ee) REPEAL: 4407, 4425, 4441.5 |
| 06/20/07 | ADOPT: 25137-14 | Title 22, MPP | |
| 06/05/07 | AMEND: 1668 | 08/07/07 | ADOPT: 86500, 86501, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529, 86531, 86531.1, 86531.2, 86534, 86535, 86536, 86540, 86542, 86544, |
| 06/04/07 | ADOPT: 1671.1 | | |
| 05/17/07 | AMEND: 1802 | | |
| 05/15/07 | AMEND: 1703 | | |
| 04/25/07 | AMEND: 1620 | | |
| 04/10/07 | AMEND: 1655 | | |
| 04/10/07 | AMEND: 1566 | | |
| 03/30/07 | AMEND: 1571 | | |
| 03/22/07 | ADOPT: 4500, 4501, 4502, 4503, 4504, 4505, 4506, 4507, 4508, 4509, 4600, 4601, 4602, 4603, 4604, 4605, 4606, 4607, 4608, 4609, 4700, 4701, 4702, 4703 | | |
| 03/08/07 | AMEND: 1602 | | |
| Title 19 | | | |
| 03/28/07 | AMEND: 906.2 | | |
| Title 20 | | | |
| 07/03/07 | ADOPT: 1233.5, 1234, 1236.5, 1311, 1346, 1349, 2508 AMEND: 1230, 1231, | | |

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86562, 86563, 86564, 86565, 86565.2,
86565.5, 86566, 86568.1, 86568.2,
86568.4, 86570, 86572, 86572.1,
86572.2, 86574, 86575, 86576, 86577,
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07/30/07 AMEND: 47-201, 47-401
06/26/07 AMEND: 40-118, 43-103, 44-209,
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